









THE  
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THE FIFTY-FIRST YEAR OF AMERICAN INDEPENDENCE.

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**SOUTHERN DISTRICT OF NEW-YORK, ss.**

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**FRED. I. BETTS,**

*Clerk of the Southern District of New-York*

# CONTENTS.

	Page.
UNITED STATES. Character of American history—Controversies with Great Britain—North-east boundary—Navigation of St. Lawrence—Disputes with Brazil—Panama mission. Organization of the opposition—Sectional character—Machinery of party—Exceptions to first message of Mr. Adams—Nomination of General Jackson—His address to the legislature of Tennessee—Principles of opposition—Majority of opposition—Charge of corruption against the administration—General Jackson's letter to the public—Mr. Clay's answer—General Jackson's reply—Refutation of charge—Executive patronage—Internal improvement—Manufactures—Commerce—Indian affairs.	5
Colonial regulations of Great Britain—Condition of States after the revolution—Acts of first congress—St. John's pamphlet—Convention of 1815—Acts of congress of 1818—Act of parliament of 1818—Negotiation—Law of the U. S. of 1820—British Act of 1822—Proclamation of the president in 1822—Negotiation continued—Act of U. S. of 1823—Order in Council of 1823—Acts of Parliament of 1825—Principles of the two parties—British colonial ports shut—Negotiation—Proceedings in senate—In house—Conclusion of session—Proclamation of president—Ports of U. S. closed.	41
Opening of congress—Bankrupt system—Failure of law of 1800—State laws—Postponement of bankrupt act of last session—Mr. Hayne's proposition—Discussion in senate—Mr. Branch's amendment—Proceedings thereon—Defeat of bill—Vice-president's appeal—Report of committee—Publishing the laws—Character of the debate—Creek controversy—Message of the president thereon—Proceedings in senate—Debate in house—Report—Cession of land by Creeks; and conclusion of controversy.	73
Depressed condition of woollen manufactures—Tariff of 1824—Alteration of British tariff—Frauds upon the revenue—Mr. Maclure's report and talk—Discussion in house—Proceedings in senate—Harrisburg convention—Division of opinion.	101
Necessary report—Revolutionary pension—Bill authorizing exchange of stock—Grant to sufferer at Alexandria—Salary of postmaster general—Appropriations for the support of government—Army appropriations—Georgia militia claim—Indian appropriations—Appropriations for internal improvement—Fortifications—Naval appropriations—Bill for the gradual improvement of the Navy—Public buildings—Correspondence between Mr. Benton and the Mexican minister.	121
MEXICO. Congress of 1827—Foreign relations—Economic affairs—Persecution of the Spaniards—Laws against them—Plot and execution of Arenas—Arrival of Negrete and Echagüen—Disturbances in Durango—Yucatan—Texas—State of parties—Exclusion of Esteva from Vera Cruz—Attack on Mr. Poinsett—Barron's proceedings—The navy.	147
CENTRAL AMERICA. Continuation of the States—Origin of the civil wars—Meeting of an extraordinary congress—President Arce convokes a convention—Disturbances in Guatemala—New government organized—Salvador seeks war upon Guatemala—The Salvadorians beaten and repulsed—Arce marches against Salvador—The latter repulsed—Peace restored—Chief of Nicaragua.	171
COLOMBIA. Government in 1827—Sanander's message—Foreign relations—Treasury—Army and navy—Capture of Remedios' party—Bolívar at Bogotá—State of things in Venezuela—Bolívar at Puerto Cabello—Páez submits—Bolívar at Caracas—Removes the presidency—Mr. Watts and Bolívar—State of things in April and May—Bastamante's nomination in Peru—Proceedings at Guayaquil—Third division of the army—Their views and objects—They submit—Bolívar prepares to march against them—His intentions—Congress meets in May—Sanander's resignation refused—Speeches in congress, of Sanander and Bolívar, concerning Bolívar—His renunciation not accepted—Decree of amnesty—Re-establishment of public order—Grand convention—Apprehensions entertained of Bolívar—Commencement of the city of Panama—Protracted conspiracy at Bogotá—A groundless fabrication—Publication of Sanander—Falsely accused by the Bolívar party—Treaty with Leo III.—Hostilities at Guayaquil—Bolívar's message to the senate—Entry of Bolívar into Bogotá—Swears to the Constitution—Proceedings of congress—Dioceses of the province—Earthquake—Concluding reflections.	187
PERU. Bolívar in Peru—Departs in September—His council—Congress of 1826—Their address—Decrees thereon—Circular of the council—Acts of the province of Lima—Tarapaca deserts—Other provinces unanimous for the Bolivian code—Sanander refuses to ratify their votes—Counted by the municipality of Lima—Decree of the congress, that the Bolivian code is adopted, and Bolívar president for life—He is proclaimed, and the constitution sworn to—Disaffection—Third division of the Colombian army—Lima perceives their discontent—Conspiracy of the patriots—Thousands of troops declare against Bolívar—Conduct of the council—Bastamante's proclamation—Citizens of Lima renounce the Bolivian code—Santa Cruz provisional president—Pando—Old constitution restored—Colombian troops leave Peru—Congress meets—La Mar chosen president—His character—Proceedings of congress—Conclusion.	213
BOLIVIA. Scanty accounts of Upper Peru—Sucre re-appointed by congress—Colombian troops—Sucre's address on his election—Bolivian code sworn to—Movement of Pando in Puno—Sucre stands neutral as to Peru—His address to the Colombian army—Conspiracy in Bolivia—Acquisition of Arica—Bolivia not recognised by Buenos Ayres—Sucre intends to resign.	261
CHILE. Blanco's resignation—Chilian finances—Resignation of president Freire—Of vice-president Pinto—The latter not accepted—Pinto's institution—War in the southern provinces—Constitution of Chile—Proceedings of the provincial assemblies—Arguments of the federal party—Arguments of the centralists—State of parties—The present government.	271
BRAZIL AND LA PLATA. Folly of the war—False policy of the republic—Disensions—Bank of Buenos Ayres—Mines—State of the war—Invasion of Rio Grande—Battle of Ituzaingo—Consequences—Brown's successes—Both parties declare peace—García's treaty—Rejected—And justly—García's defence—Rivadavia resigns—López elected—Government of Buenos Ayres—Dissolution of the republic—Córdova and Buenos Ayres united—State of the war—Brazilian ministry—Mr. Rangel's departure from Rio—Pucos.	287

# CONTENTS.

<b>GREAT BRITAIN.</b> New Parliament—King's speech—Indemnity to ministers—Joint resolution—Companies—Aid to Portugal—Death of the duke of York—Parliament re-assembled—Mr. Peel's bills for amending criminal laws—Catholic question—Amendment of the corn laws—Sickness of Lord Liverpool—Mr. Canning appointed premier—Resignation of six cabinet ministers—New appointments. Popularity of Mr. Canning. The cabinet organized. Parliament in May. Debates in the house of commons on the ministry. And in the house of lords. Mr. Canning's situation. Coalition with the whigs. Mr. Canning's budget. Bill for amending the corn laws. Disfranchisement of Penryn. Parliament prorogued. Treaty for the settlement of Greece. Death of Mr. Canning. His character. Lord Goderich's ministry. Conclusion.	307
<b>FRANCE.</b> Views concerning Spain and Portugal. Opening of the chambers. Mouthier's petition. Law concerning the press. Dissolution of the National guard. Debate on the budget. Hyde de Neuville. Censorship of the press. Mautherin's assault on Talleyrand. Burial of St. Manuel. Relations with Spanish America. War with Algiers. Dissolution of the chamber of deputies. Elections unfavourable to the ministry. Massacres of November. Prosperity of France.	337
<b>PORTUGAL.</b> State of parties. Chaves. Views of Spain. Preparations in Spain for invading Portugal. Negotiations at Madrid. Rising of the disaffected. Session of the Cortes. Invasion of Portugal by Chaves. Military operations. English troops. Battle of Corchs. Last effort of the rebels. Flight of the Portuguese towards the British. Cortes prorogued. Meeting at Elvas. Portugal in May. Changes of ministry. State of parties in August. Return of Don Miguel determined. Preparations therefor.	353
<b>SPAIN.</b> State of parties. Views as to Portugal. Conduct of government. Submits to Great Britain. Zurbano's circular. Arguñon's exposition. Solution. Correspondence. Justice. Letters at Madrid. South American states. Colombian bishops confirmed by the pope. Carlists. Carlists. Their progress. All Catalonia in rebellion. Treatment of the insurgents. Manifesto of the government. Junta of Manresa. Departure of the king for Tarazona. Operations against the rebels. Insurrection quelled.	377
<b>GREECE AND TURKEY.</b> Insurgents. Attempts to reform them. Rescued by Mahomet. The rebels. The new regulations. Insurrection of the Janissaries. How suppressed. Constitution of Constantinople. New troops. State of Greece in 1827. Siege of Missolonghi. Murders and the fleet. Events of the siege. Fall of Missolonghi. Summary of 1826. Victory of Epidauris. Commencement of government. Third national assembly. New government. Capital letter of the president. His character. Sir Richard Church and Lord Palmerston. Greek loans. High prices of the Turks. Samos. Thessalon. Athens invested. Kermakli. Disturbance at Hydra. Legate Hellen. Greek army in Attica. Turks evacuated. Kermakli. Battle of the Acropolis. Officers of expedition. Serpents. Insurrection of Naxos. Cuchid's movements. State of Greece, July, 1827. Greek revolution. Contributions. Protest of St. Peter Church. Negotiations at Constantinople. Mandate of the Porte. Treaty of London. Negotiations. Battle of Navarino. Effects on the Turks. The insurrection at Constantinople.	393
<b>NEW BRITAIN AND DOMINION OF THE SEAS.</b> The new regulations. Insurrection of the Janissaries. How suppressed. Constitution of Constantinople. New troops. State of Greece in 1827. Siege of Missolonghi. Murders and the fleet. Events of the siege. Fall of Missolonghi. Summary of 1826. Victory of Epidauris. Commencement of government. Third national assembly. New government. Capital letter of the president. His character. Sir Richard Church and Lord Palmerston. Greek loans. High prices of the Turks. Samos. Thessalon. Athens invested. Kermakli. Disturbance at Hydra. Legate Hellen. Greek army in Attica. Turks evacuated. Kermakli. Battle of the Acropolis. Officers of expedition. Serpents. Insurrection of Naxos. Cuchid's movements. State of Greece, July, 1827. Greek revolution. Contributions. Protest of St. Peter Church. Negotiations at Constantinople. Mandate of the Porte. Treaty of London. Negotiations. Battle of Navarino. Effects on the Turks. The insurrection at Constantinople.	407
<b>THE HOUSE OF COMMONS.</b> The new regulations. Insurrection of the Janissaries. How suppressed. Constitution of Constantinople. New troops. State of Greece in 1827. Siege of Missolonghi. Murders and the fleet. Events of the siege. Fall of Missolonghi. Summary of 1826. Victory of Epidauris. Commencement of government. Third national assembly. New government. Capital letter of the president. His character. Sir Richard Church and Lord Palmerston. Greek loans. High prices of the Turks. Samos. Thessalon. Athens invested. Kermakli. Disturbance at Hydra. Legate Hellen. Greek army in Attica. Turks evacuated. Kermakli. Battle of the Acropolis. Officers of expedition. Serpents. Insurrection of Naxos. Cuchid's movements. State of Greece, July, 1827. Greek revolution. Contributions. Protest of St. Peter Church. Negotiations at Constantinople. Mandate of the Porte. Treaty of London. Negotiations. Battle of Navarino. Effects on the Turks. The insurrection at Constantinople.	503-10

## PUBLIC DOCUMENTS.

Messengers of the President of the United States to the British Congress, second Session.	[1]
Convention between the United States and Great Britain.	[16]
Proclamation by the President of the United States, regarding the Ports of the United States.	[18]
Convention between the United States and Great Britain.	[19]
Instructions and Circulars, relative to carrying the Trade between the United States and British Colonies.	[22]
Correspondence in the Nation of the St. Lawrence.	[137]
Message of the President of Mexico.	[174]
Messengers of the Vice-President of Colombia.	[193]
Address of Bolivar to the Congress of Congress of Bolivia.	[197]
Proclamation of Bolivar, relative to the	[205]
Speech of Emperor of Mexico, to the Congress and Assembly.	[205]
Don. of Lieutenant Governor of Lower Canada to the Provincial Parliament.	[207]
Speech of King of Great Britain in Parliament.	[209]
Address of Minister of the Interior to the Senate-General of Netherlands.	[210]
Speech of King of Prussia to the Chambers.	[211]
Ordinance of the Emperor, relative to the Congress.	[212]
Speech of the Director-General of the Bank of Spain.	[213]
Royal Order, respecting Commerce.	[214]
Proclamation of King of Portugal, promulgating Constitution.	[215]
New Constitution of Portugal.	[216]
Treaty of Amity and Commerce between Russia and Prussia.	[220]
Treaty of London, with the Government of Greece.	[228]

## LAW CASES.

<i>Reid vs. King and Verplanck</i> <i>Libel</i> .	[231]
<i>The State vs. John Brown</i> <i>Piracy</i> .	[270]
<i>The Mayor's Advocate vs. David Smith</i> <i>Killing his opponent in a duel</i> .	[274]
<i>The King, Brother &amp; Co. vs. Ship Tappan</i> <i>Piracy and Murder</i> .	[283]
<i>United States vs. Pope</i> <i>Murder and Libel</i> .	[284]
<i>Reid vs. W. B. Hall</i> <i>Abolition Law</i> .	[297]
<i>The State vs. Bayward, et al.</i> <i>Abduction of William Morgan</i> .	[307]

## OBITUARY.

Marquis of Hastings. Major Brun. Duke of York. Pestalozzi. Christopher Gore. Rufus King. Marquis de la Pique. King of Saxony.	323-4
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# AMERICAN ANNUAL REGISTER.

FOR THE YEAR 1826.

## HISTORY OF THE UNITED STATES.

### CHAPTER I.

*Character of American history—Controversies with Great Britain—North East boundary—Navigation of St. Lawrence—Disputes with Brazil—Panama mission.*

In the preliminary chapter of the last volume, a short account was given of the principles and pretensions of the European powers; that appropriated the American continent to their exclusive use; and of the manner in which most of the colonies established here, assumed the rank of independent powers. This change in the character of those colonies essentially modified the policy of all those governments, which in any manner were connected with the destiny of the new world. A new era now commenced in its history. Instead of being the relation of fruitless remonstrances against partial commercial regulations, and

resistance to colonial oppressions, it became the record of discussions and measures, all having in view the welfare and essential independence of this hemisphere, and the abrogation of the novel principles of international law, which grew out of the colonial system. Other questions, too, were presented, touching disputed limits, and the navigation of boundary rivers; which, during the last year, were brought under discussion. Such are the materials of the present history of America. When the independent states which now occupy this portion of the globe, shall have existed long enough to give an air of probability to claims founded on

prescription, no doubt their conflicting interests will often bring them into collision; but hitherto all the controversies in which they have been engaged, have been part of their European inheritance, and the entailed evils of their colonial connexion with the old world. Instead of disputes about contested titles to crowns and provinces, and the various controversies resulting from the feudal system, which have proved such fruitful sources of dissension in Europe; the discussions and contests which have engaged the attention of the independent powers of America, have been in behalf of free trade, as opposed to the colonial system; or concerning the boundary lines between provinces, whose limits were never properly defined, while colonies. This remark is strikingly exemplified in the course of the transactions between the United States and Great Britain, the nation most interested in perpetuating the colonial dependence of this continent upon Europe. On every occasion, that power is found in opposition to the policy of this country. Fortunately, the most important questions between them are no longer agitated; and it is to be hoped, that circumstances will not soon render their decision necessary to the interest and honour of either nation; but still enough remains of controversy to engage the

earnest attention of both governments. An account of one of the most fruitful causes of dissension, viz. the intercourse between the United States, and the British West-Indies, will be found in the third chapter of this volume; and the official correspondence on that subject, among the public documents in the second part, fully develops the conflicting views and principles of the two governments. The other topics of discussion which especially engaged their attention during the last year, were concerning the right of navigation of the St. Lawrence, and the north-east boundary of the United States.

As the latter question relates to territorial limits and jurisdiction, topics on which both nations are unusually sensitive; and, as connected with the arrest of Baker, it has been made the subject of serious negotiation, and requires the interposition of a third power in the character of an umpire, we shall examine it first in order.

It arises out of the construction of the 2d article of the treaty of '83; and as that depends upon the meaning to be affixed to the expression "the N. W. angle of Nova Scotia," in order to designate that point, it becomes necessary to ascertain the boundaries of that province.

Upon the termination of the seven years war with France in 1763,

## UNITED STATES.

all the North American possessions of that power were ceded to Great Britain.

One of the first steps of the British ministry after the cession was, to divide their new acquisitions into provinces, and to define their respective limits.

Accordingly a royal proclamation was issued October 7th, 1763, fixing the south east boundary line of Quebec as follows :

"Crossing the river St. Lawrence and lake Champlain, in forty-five degrees of north latitude, passing along the highlands which divide the rivers that empty themselves in the said river St. Lawrence, from those which fall into the sea; and also along the coast of the bay of Chaleurs and the coast of the gulf of St. Lawrence to Cape Rosier."

In conformity with this line, the royal commission to Montague Wilnot, as governor of Nova Scotia, thus describes the limits of that province :

"To the northward, our said provinces shall be bounded by the southern boundary of our province of Quebec, as far as the western extremity of the bay des Chaleurs; and to the westward, it shall be bounded by a line drawn from Cape Sable, across the entrance of the bay of Fundy, to the mouth of the river St. Croix, by the said river to its source, and by a line drawn due north, from thence to the southern boundary of our colony of Quebec."

This formed the dividing lines of Nova Scotia between the province of Massachusetts on the west, and

of Quebec on the north; and the northwest angle of that province was bounded by the junction of those two lines.

The northern and eastern boundary lines of the United States, as established by the treaty of 1788, was evidently copied from the descriptions in that proclamation and commission; and it was obviously intended to preserve the ancient boundaries between the States and Nova Scotia on one side, and the Canadas on the other.

It is in these words :

"ART. 2d. And that all disputes which might arise in future, on the subject of the boundaries of the said United States, may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz. : From the northwest angle of Nova Scotia, viz. : that angle which is formed by a line, drawn due north from the source of St. Croix river to the highlands—along the said highlands which divide those rivers that empty themselves into the river St. Lawrence, from those which fall into the Atlantic ocean, to the north-westernmost head of Connecticut river : thence down along the middle of that river, to the forty-fifth degree of our north latitude, thence due west on that latitude." &c. defining the great northern boundaries of the States. In the same article, the eastern boundary is again drawn in a similar manner : "East by a line to be drawn along the river St. Croix, from its mouth, in the bay of Fundy, to its source, directly north to the aforesaid highland which divide the rivers that fall into the Atlantic ocean, from those which fall into the St. Lawrence."

It would scarcely seem possible, after determining the source of the



river St. Croix, that there could be any difficulty in ascertaining the northwest corner of Nova Scotia; which must necessarily lie in that part of the highlands dividing the rivers falling into the St. Lawrence, from those flowing into the ocean, which is intersected by a line extended due north, from the source of the St. Croix. At all events, it is clear, that one of the points from which the boundary of the United States commences, is the northwest angle or corner of Nova Scotia, and not at a point south of that angle; and also, that from that angle, the northern boundary of the United States is to proceed along the highlands, which divide the rivers falling into the St. Lawrence from those falling into the Atlantic. The northwest corner of Nova Scotia is either at the source of the Ristigouche, or of its southern branch, called the Wagantiz river, both of which terminate near the line extended north from the source of the St. Croix; and it is not important to the decision of this controversy, which of these points be considered the northwest angle. In that quarter of the country, the chain of highlands which divide the rivers falling into the St. Lawrence from the ocean rivers, spread to the south, and meet the line extended from the St. Croix; and according to the maps of Bouchette, surveyor general of Lower Canada, published in 1815, the N. W.

angle of Nova Scotia is placed at the source of the Wagantiz, at the termination of those highlands.

From this point, then, the northern boundary line of the United States runs along those highlands, which are at the sources of the rivers falling into the St. Lawrence, and which form a range of hills designated in the maps of Bouchette, as the height of land, sometimes approaching within 25 miles of the St. Lawrence, and then receding until it crosses the 45th degree of N. latitude.

According to this boundary, which extends to the north of the river St. John; all the rivers falling into the St. Lawrence, are divided from those running into the ocean; and this is the only line which, commencing at the northwest angle of Nova Scotia, can make that division.

The effect of this, however, will be, to intercept the direct communication between Quebec and Halifax, and will also concede the right of jurisdiction to the United States, over two settlements; one on the Aroostock, and the other on the Madawaska, over which the British government also claims jurisdiction. The first of these settlements was formed about 7 years since, by British provincials, much involved in debt, and who established themselves there, to avoid their creditors; and the Madawaska settlement was founded by the French

## NORTH-EASTERN BOUNDARY

refugees who were expelled from Nova Scotia by the British troops, in 1749, and who fled to the wilderness for refuge from the persecution of the British authorities.

To establish its jurisdiction over these settlements, and more especially to preserve the communication between its remaining provinces, the British Government seeks to put another construction upon the treaty, and contends that the northern boundary line of the United States commences at a hill called Mars hill, and thence runs to the westward over a range of hills which lie at the sources of the Penobscot, Kennebec and Androscoggin.

This line indeed divides those rivers from those which fall into the St. Lawrence, but it also divides them from the St. John's, which falls not into the St. Lawrence, but into the Atlantic through the bay of Fundy.

The amount of territory comprehended between this and the American boundary, is about 10,000 square miles, mostly uninhabited, but of a good soil and covered with timber.

The grounds upon which the British claim is advanced are, that it was the intention of the Commissioners who concluded the treaty, so to divide the territory as to give to the United States the whole course of the rivers, whose mouths are within their boundaries, and to the

British the heads of all the rivers discharging themselves within their limits; and that as the mouth of the St. John was within the British boundary line, that river belonged in its whole course to Great Britain. They also contended that the St. John does not empty into the Atlantic, but into the bay of Fundy, and that the highlands referred to in the treaty commence at Mars hill.

To this argument, however, there are two conclusive objections: 1st, that the treaty expressly declares that the American line should commence at the North West angle of Nova Scotia, and thence proceed to the West or North West along the highlands; whereas this construction would make it commence one hundred and twenty miles south of the North West angle: and 2ndly, that Mars hill is a solitary elevation of no great height, and unconnected with any range of mountains, along which the boundary line could be extended.

To meet the first objection concerning the North West angle, it is contended on the part of Great Britain, that the North West corner of the United States does not extend beyond Mars hill. It is however a most unfortunate comment upon this argument, that Baker, the American citizen lately arrested and tried for an offence against the sovereignty of his Britannic Majesty, was arraigned in the courts of New-Brunswick. (a province formed

since the revolution out of the ancient province of Nova Scotia; and that the place where this violation of the laws of New-Brunswick took place, was one hundred miles North West of Mars hill, which, according to the argument, is the North West corner of that province.

This arrest has attracted the particular attention of the community to this controversy, and having stated the grounds upon which the conflicting claims of the parties depend, we proceed to narrate the circumstances which led to this occurrence.

For many years after the flight of the French settlers of Nova Scotia into the wilderness, in order to avoid being transported to the West Indies, they remained unknown; and it was not till half a century after their flight that the authorities of N. Brunswick ever undertook to exercise any authority over them, viz: in 1790 and in 1794, after the Treaty of peace, when Thomas Carleton, Lt. Governor of New-Brunswick, issued several grants to some of the settlers, of which fact it does not appear that the American Government was cognisant. From the time of these grants they remained unnoticed until about 15 years since, when a contested election in York induced some of those interested to bring them to the polls, but their right has not been generally admitted, being refused or permitted as suited the views of those in power. Since

the dispute concerning the boundary line commenced, a more direct course to acquire jurisdiction over them has been pursued by the British authorities. For five or six years past the French settlers have been enrolled in the militia, and have performed military duty, but have not been entrusted with arms; and they have occasionally been subjected to the civil process of the New-Brunswick courts.

These circumstances having caused dissatisfaction among the settlers, (some of whom were emigrants from the Kennebec,) a portion of them began to question the right of the provincial authorities over them. Among other acts indicative of their sentiments, they celebrated the 4th of July, and John Baker, a citizen of Maine, who had resided there about seven years, undertook to prohibit the passage of the mail from Quebec to Halifax, through the Madawaska settlement. For this act he was arrested, and being arraigned before the courts of New-Brunswick, was convicted of a misdemeanor for seditiously obstructing his Majesty's mail and disturbing the peace and tranquillity of the province of New-Brunswick. This decisive and open exercise of exclusive jurisdiction on the part of the provincial authorities, over the territory in dispute between the two Governments, produced great irritation among the people of Maine, and the Governors of that State and

of Massachusetts took immediate steps to inquire into the transaction, with the view of sustaining their territorial rights. The National Government also protested against the usurpation of the province of New-Brunswick, as a violation of the agreement between the governments of the United States and Great Britain concerning the disputed territory, and required the release of Baker and indemnity for his imprisonment; but the British minister defended his punishment on the ground that his act was an authorised irregularity, although he promised to lay the demand of the American Government before the king, and concluded with expressing a wish that the mode of arbitration, which was the result of this correspondence might put the question at rest for ever, by determining the boundary line.

The assumption of authority on the part of Great Britain, over the disputed territory, was in the sequel earnestly protested against by Mr. Clay as inconsistent with the moderation, which it was understood by both governments should be manifested in relation to it, and be incompatible with the rights of the United States.

This correspondence resulted in a convention with Great Britain, by which it was agreed that definitive statements of all the facts connected with the boundary, and counter statements in reply, should be pre-

pared within twenty-one months after the ratification of the convention, and that the whole should be submitted within two years to the arbitration of some friendly power, whose decision should be obtained, if practicable within two years thereafter. In this manner a mode was provided for the amicable adjustment of a controversy, which at one time endangered the friendly relations of the two Governments.

The negotiations concerning the right of the citizens of the United States to navigate the St. Lawrence, did not terminate in so satisfactory a manner. The British negotiators at one time endeavoured to connect the two questions together, with the view of obtaining remuneration of our claim concerning the North Eastern boundary, as an equivalent for permission to navigate the St. Lawrence; but the federal government declined to accede to that proposition. Indeed it may well be doubted, whether the territorial rights of Maine and Massachusetts could be bartered away for the navigation of a river, in which neither of them have any concern.

Such was the view of the National Government, and the negotiations on these subjects were accordingly kept distinct.

In the correspondence concerning the St. Lawrence, which will be found in the latter part of this volume among the public documents,

the British Government steadily denied the naked right of American citizens to navigate this river beyond the place where it became a part of the boundary line, and contended that it was one of those qualified rights, the exercise of which depended upon the will of the government in whose territory the river emptied itself.

The argument by which this position was sustained, was derived from the right which every nation possesses to prohibit either in whole or in part, the citizens of other countries from visiting its territories for commercial or other purposes. On the other hand, the American Government maintained, that that argument was inapplicable inasmuch as its citizens did not ask to visit the British territories, but merely demanded the innocent right of passage through them; and that as the St. Lawrence was not similar to a river, a great part of whose course was within the British territories, but was the only outlet of five great inland lakes, and was rather a strait connecting navigable seas, the convenience of the vast population, and the interests of the fertile country on their shores, created a right of access to the ocean, which ought not to be sacrificed to the jealousy of the smaller population of the limited territory on the banks of the St. Lawrence.

The right of passage down that river was entirely refused by the

British Government; but an expectation prevailed, that rather than provoke the United States to retaliatory measures in that part of the river exclusively within their jurisdiction, the benefits of the navigation would be extended to the citizens of the United States by act of Parliament, although from an absurd and lingering attachment to her antiquated system of colonial monopoly, that government declined to admit the unqualified right of passage.

While these discussions concerning boundaries and the use of boundary rivers were progressing, other questions relating to our neutral and maritime rights, arose with one of the new American powers, which by an unadvised step on the part of the American minister at that court, seriously embarrassed the Government of the United States. In prosecuting the war with Buenos Ayres, the Emperor of Brazil determined to avail himself of his naval superiority by blockading the Rio de La Plata. This blockade of necessity circumscribed the commercial advantages which the citizens of the United States, as neutrals, would otherwise have derived from carrying supplies to the ports of Buenos Ayres; but to such inconveniences they were obliged to submit, provided the blockade was closely and effectually maintained. In that case the rights of the neutral

must give place to those of the belligerent.

The Brazilian fleet was sufficiently numerous to maintain a rigorous blockade, but in point of fact the blockading squadron was so often eluded, owing to a want of skill or energy on the part of its commanders, that it might be fairly regarded as inadequate to its duties. This state of affairs gave rise to a perplexing question: for while the Americans had a right to infer from the looseness with which the blockade was kept up, that it was not an effectual blockade, and of course not entitled to respect; the Brazilian Government maintained that these violations were owing to the lenity of its officers, and to the manner in which neutrals abused the permission granted to them to visit Monte Video, from which place they often cleared out for ports in the Pacific, and taking advantage of a fair wind, run by the Brazilian fleet into Buenos Ayres. The difficulties caused by these circumstances, were also increased by the attempts which Brazil made to supply the inefficiency of her naval officers, by setting up the pretension of enforcing what is commonly called a paper blockade. This pretension, which on the part of Brazil might justly be considered as absurd, the Government of the United States, faithful to its principles, resisted, as it had formerly done when advanced by the more powerful Government

of Great Britain. It was unavoidable, in this state of things, that in the prosecution of the war, many violations of our neutral rights should not occur; and when the character of the Brazilian Navy and of its Government is taken into consideration, it is easy to believe that the exercise of their belligerent rights was not always tempered with discretion, or a spirit of forbearance and humanity. Against these invasions of neutral rights, both in principle and practice, the Government of the United States strongly protested, and the energetic remonstrances of Mr. Condé Raguet, the American Minister at the Court of Brazil, supported as they were by the presence of a naval force, under Capt. Biddle, Elliott and Hoffman, induced Don Pedro to relinquish the attempt to enforce a paper blockade, and to acquiesce in the principle contended for by the American Government, viz. that no vessel is liable to detention, unless manifestly evincing an intention to violate the blockade, after having been warned off, and that no vessels on the high seas should be detained, although destined to blockaded ports.

The Brazilian cruizers, however, continued to capture American vessels for alleged violations of the actual blockade, and a warm and unpleasant discussion commenced between the Brazilian Minister of Foreign Affairs and Mr. Raguet,

in relation to these captures, which terminated in the abrupt departure of the latter from the Court of Brazil. The immediate cause of this decisive step, was the seizure of the brig *Spark*, formerly a public armed vessel in the American service, but at that time belonging to citizens of the United States. This vessel was first offered for sale at Rio Janeiro to the Brazilian Government, which refused to purchase her. The captain then cleared out for Monte Video, and the day of her departure she was captured off the port of Rio Janeiro, and carried back, on the ground that she had augmented her armament and crew while in Rio Janeiro, and that these circumstances raised strong suspicions that she was intended to be sold to the government of Buenos Ayres.

Mr. Raguet immediately inquired into the motive to this seizure, which was given by the Brazilian Minister, who invited him to cause these suspicious circumstances to be explained, so that the vessel might be released. This invitation was at once declined by Mr. Raguet, on account of the uncourteous conduct of the Brazilian Government, and because the seizure had been made before his interference was requested, and the next day, March 8th, 1827, he demanded his passports, which being granted, he sailed for the United States. Although this seizure of the *Spark* was the alleged

cause of this step on the part of Mr. Raguet, it is obvious that other circumstances operated upon his mind, and had produced an irritated state of feeling very unfavourable to the temperate discussion of those questions, which grow out of the collisions between neutral and belligerent rights; and in one remarkable instance, he had compromised the character of a Minister by language which did more honour to his feelings as a man, than to his discretion as the representative of a foreign power. We allude to his strong and severe denunciation of the Brazilian nation to the under Secretary of Foreign Affairs, on account of an outrage committed by one of its naval officers, upon a Spanish subject on board of a Spanish ship, on the high seas. No doubt can exist as to the nature of that transaction, and no expression of individual opinion could stigmatize it too strongly; but it did not fall within the sphere of the legitimate duties of a Minister of a third party, to notice it in his official capacity; and it was compromising his character to introduce it in his discussions with the Brazilian Government.

Under such circumstances, the unauthorized departure of Mr. Raguet from his station, placed his Government in a most embarrassing situation.

Many illegal captures had been made, and unwarrantable measures

adopted by the public officers of Brazil, which subjected our commerce to injury and insult; but the Government still preserved a conciliatory tone, and not only promised redress, but in several instances released American vessels, and acquiesced in the principles contended for by the American Chargé d'Affaires. A system of procrastination in relation to vessels detained for adjudication, was indeed adopted that might have justified retaliatory measures on the part of the United States; but the propriety of taking such measures depends upon the decision of Congress, which the Executive is not competent to anticipate. When a Foreign Minister determines upon leaving his post, it is generally deemed a preliminary step to more decisive measures; and if such a step is only the termination of an unsuccessful negotiation, and resorted to because remonstrances have proved fruitless, by sanctioning his departure, his own Government adopts the more energetic course, and is considered as approving of his whole conduct in the negotiation.

On this occasion the Government of the United States could not have done this without placing itself in the wrong, and on the other hand it could not disapprove of his departure without giving an advantage to the Brazilian Government. That Government had justly incurred the displeasure of the United States, but

the time and mode of manifesting that feeling depended upon the will of Congress, and Mr. Raguet, by assuming the responsibility of making a rupture between the nations, put a stop to negotiation, and placed the Government of the United States under the necessity of declaring war, or of retracing its footsteps. Fortunately Don Pedro, alarmed at the effect of Mr. Raguet's departure, took immediate measures to prevent any further misunderstanding, and despatched a special messenger to the United States, with assurances of indemnity for all illegal captures, and prompt redress for any injuries sustained from his measures by the citizens of the United States.

This satisfied the President, and the diplomatic intercourse between the two Governments was renewed.

The celebrated Congress of Panama, of whose origin an account was given in the last volume, had its first meeting in the month of June of 1826; and after concluding a treaty of friendship and perpetual confederation between the belligerent parties, the deputies adjourned, to meet at Tacubaya, a pleasant village near the city of Mexico the ensuing February. The domestic opposition which was made to the appointment of the ministers of the United States, prevented any representation of this country in that Congress at its first sitting, and almost as a necessary consequence, no subjects excepting



those immediately affecting the belligerents were taken into consideration.

The Ministers nominated by the President, were at length appointed ; but one of them, Mr. Anderson, died on his way to Panama, and Mr. Poinsett, the residing Minister at Mexico, was appointed in his place. Mr. Sergeant his colleague, repaired to Mexico, to be present when the Congress should reassemble at Tacubaya. The Congress did not assemble, however, at the appointed time, and there being no prospect of another session at any specified period, Mr Sergeant returned to the United States. The causes of this unexpected issue of a measure, which promised in its commencement to do so much to meliorate the condition of mankind, by diminishing the causes as well as the evils of war, are not yet fully ascertained. There is, however, every reason to believe, that they

are connected with the internal commotions of Colombia and Peru, and the universal apprehension existing in South America of the ambitious designs of Bolivar.

If the Representatives of the United States could have been present during the session at Panama, it is probable that a declaration would have been promulgated expressing the sentiments of the American powers on the disputed principles of national law, which were originally contemplated to form part of the subject-matter of its deliberations.

In their absence, however, it was not deemed advisable to consider those topics, and an opportunity was thus omitted of mitigating the ancient rigour of the laws of war, and of enforcing the liberal principles maintained by the government of the United States, which may not be again speedily presented.

## CHAPTER II.

*Organization of the Opposition—Sectional Character—Machinery of Party—Exceptions to First Message of Mr. Adams—Nomination of Gen. Jackson—His Address to Legislature of Tennessee—Principles of Opposition—Materials of Opposition—Charge of Corruption against the Administration—Gen. Jackson's Letter to the Public—Mr. Clay's Answer—Gen. Jackson's Reply—Refutation of Charge—Executive Patronage—Internal Improvement—Manufactures—Commerce—Indian Affairs.*

THE opposition to the administration of Mr. Adams, which had manifested itself, even previous to any developement of his views as to the foreign and domestic policy of the government, now assumed a more consistent shape.—The discussions on the various subjects recommended by the executive to the consideration of congress in his first message, elicited opinions, and the collisions at the fall elections of 1826, had created in various parts of the country domestic parties, having in view the support for the overthrow of the administration.

In their incipient state, these parties were of a geographical character, with the exception of the states of Pennsylvania, Kentucky, and Louisiana, which, by the

operation of peculiar causes, were detached from the parties, with which they were connected by position.

In the nineteenth congress, it was accordingly found, that on all questions of a party nature, or which might directly or indirectly affect the administration in public opinion, the representatives from the Southern states, together with those from Pennsylvania, took opposite sides to those from the northern and western states. The political characteristics of this party, or the grounds upon which it justified its opposition to the administration, were not at once developed. Reasons were given for not assenting to certain measures, which were recommended by the executive; but unqualified opposition was disclaim-

ed, except by those who professed to believe in the alleged bargain between the President and the Secretary of State. These did not hesitate to declare their determination to put down the administration at all hazards; but others, and especially certain of the senators from states, where the friends of the administration were in the majority, reserved their opinions as to their ultimate course, declared that they would judge of it by its measures, did not rank themselves with its unqualified opponents, and thus lulled the suspicions of its friends, until after their re-election to the senate. An opposition majority having been secured in that body, the opinions and principles of the party were now promulgated in their speeches, both in congress and in the primary assemblies, with the view of operating upon the population of those states, which were removed from the sphere of sectional prejudices.

The Panama mission afforded an opportunity to commence an attack upon the administration, as having departed from the safe and cautious policy of the United States with regard to foreign nations; and frequent appeals were made to the Father of his country, for the purpose of showing that an acceptance of the invitation of the South American republics to be present at that congress, was pregnant with all the evils to be dreaded from

entangling alliances with foreign powers.

The American people, however, did not respond to these appeals. They readily distinguished between the ambitious policy of making their country the arbiter of other nations; and the timid policy of ignorant and barbarous countries, which, detaching themselves from the rest of the world, are inattentive to the great movements that are taking place beyond their own borders, and, by heedlessness or negligence, permit more sagacious governments to appropriate the advantages, which are within the reach of all who are awake to their own interests. In the choice of other topics of political discussion, the opposition was more successful.

During the long and peaceful administration of Mr. Monroe, the public mind had been unusually tranquil. The bitterness of party spirit had subsided, and the leaders of the conflicting parties into which the nation had been divided, forgetting their past differences, were often seen harmoniously co-operating to advance the general interests. The citizens, who had in former times been stimulated by an active political zeal, now remembered they were politicians, only when they were called upon to act as electors, and amalgamated almost into one mass the American people, with an unparal-

teled unanimity, approved of the policy of the federal government. This satisfaction with the conduct of their rulers, unfortunately manifested itself in too great an indifference towards public concerns, and the electors did not scrupulously examine the conduct of their representatives, nor nicely canvass their pretensions to popular favour, so long as the measures of the government did not come into collision with their private pursuits. In consequence of this indifference, a class of mere politicians appeared in public life, who were indebted for their success to the absence of all powerful excitement, and of those strong motives which call into the service of the nation men of commanding talents.

The machinery and organization of parties, which, in the heat of the political conflict, have the effect of concentrating the suffrages of the electors upon candidates selected when there exists no indifference as to success, now promoted the views of men, who owed their advancement solely to a pliancy of principle and a ready subservience to the will of others.

In this state of things, it was easy to produce a factitious political sentiment in legislative bodies, very different from the deliberate opinion of the community. The yeomanry of the country, and the industrious inhabitants of the towns and cities, reluctantly yield their attention to

intricate political questions, and are slow to form an independent judgment as to conflicting opinions, especially when parties are in an embryo state. It is not, however, so difficult to gain the attention of those who are jealous of power, and who drink with a thirsty ear all reports derogatory to those who administer the government. This jealousy, although praiseworthy in itself, may be carried to excess, and when it loses its power of discrimination, it is ready to confound liberal expenditure for what is necessary with extravagance, and to charge the accidents and misadventures to which all human affairs are subject, and from which the complicated concerns of government are not exempt, upon the incapacity or negligence of those who administer it.

With the view of enlisting the prejudices of this class against the administration, charges of extravagance were freely made against those now at the head of the government; resolutions were introduced into congress, insinuating rather than asserting, that the patronage of the executive was too great: and it was proposed to vest such checks upon it in the legislative branch of the government, as in effect to confer the appointing power upon that department. The ordinary and established expenditures of the government, were examined, with new and unexampled

rigour, for the purpose of producing the belief that they originated with the present administration; and an assertion on the part of the President of his constitutional right, to appoint, in the vacation of congress, diplomatic agents to transact the foreign business of the country, was construed into an usurpation of a new and unconstitutional power. Exceptions were also taken to certain of his recommendations to Congress, as indicating a wish for a magnificent and expensive scheme of government, and a tendency towards consolidation on the part of the federal authorities.—These objections, which at first were confined to that class of politicians who contended for a strict and narrow construction of the constitution, were not at once adopted by the friends of the Vice President. They professed to found their opposition on the corrupt origin of the administration, and asserted that it was the clear and manifest will of the people, that Gen. Jackson should be elected President.

This portion of the opposition, for it was obvious that there was no cordial agreement between the two sections of the party, either as to the powers of the government or the mode of administering it, at once declared open hostility against the administration, and proceeded to nominate candidate for the presidency. In conformity with

one of the grounds of opposition, they fixed upon Gen. Jackson, who, in the month of October, 1825, was nominated by the legislature of Tennessee as a candidate in opposition to Mr. Adams. This nomination was formally accepted by him, in an address delivered before both branches of the legislature, in which he resigned his seat in the senate of the United States. After stating that he was originally induced to accept the station he then held, because he understood that he would not be required to serve longer than for the term of one congress, he says, that he would still continue if any important service could be performed, but that he was not aware of any important business likely to be brought before congress, except an amendment of the constitution in relation to the choice of a chief magistrate.

He then alluded to the nomination of himself as a candidate, and proceeded as follows :

“ Thus situated,—my name presented to the freemen of the United States for the first office known to the constitution,—I could not, with any thing of approbation on my part, consent either to urge or encourage an alteration, which might wear the appearance of being induced by selfish considerations—by a desire to advance my own views. I feel a thorough and safe conviction, that imputation would be ill founded, and that nothing

## OPPOSITION CANDIDATE.

could prompt me to any active course, on that subject, which my judgment did not approve ; *yet, as from late events it might be inferred, that the prospects of your recommendation could be rendered probable only by the People having the choice given to them direct*, abundant room would be afforded to ascribe any exertions of mine to causes appertaining exclusively to myself. Imputations thus made, would be extremely irksome to any person of virtuous and independent feeling ; they would certainly prove so to me ; and hence the determination to retire from a situation where strong suspicions might at least attach, and with great seeming propriety. I hasten, therefore, to tender this my resignation into the hands of those who conferred it, that, in the exercise of their constitutional rights, they may confide it to some one deserving their confidence and approbation."

After commenting upon the amendments proposed and approving of them, on account of their removing the election entirely from congress, he recommended an additional provision, making all members of congress ineligible to any office under the general government, excepting judicial offices, during their term of service, and for two years thereafter. He concluded in the following manner :

" We know human nature to be

prone to evil : we are early taught to pray, that we may not be led into temptation ; and hence the opinion, that, by constitutional provision, all avenues to temptation, on the part of our political servants, should be closed.

" My name having been before the nation for the office of chief magistrate during the time I served as your senator, placed me in a situation truly delicate ; but delicate as it was, my friends do not, and my enemies cannot, *charge me with descending from the independent ground then occupied, with degrading the trust reposed on me, by intriguing for the presidential chair*. As, by a resolution of your body, you have thought proper again to present my name to the American people, I must entreat to be excused from any further service in the senate ; and to suggest, in conclusion, that it is due to myself to practise upon the maxims recommended to others ; and hence, feel constrained to retire from a situation where temptations may exist, and suspicions arise of the exercise of an influence tending to my own aggrandisement."

The strong insinuations in this address against the propriety of the last election by congress, plainly indicated his dissatisfaction at the result, and manifested a willingness to sanction an opposition to the administration, on the ground of its corrupt origin. This same

ground was taken by the adherents of the Vice President, in the discussion on the amendment proposed to the constitution by Mr. McDuffie, in the first session of the nineteenth congress. These insinuations were at that time warmly repelled, and none seemed disposed to rely upon this ground of opposition, except that class of politicians, who in all questions of the constructive power of the federal government, and the mode of administering it, agreed rather with the friends, than the opponents of the administration.

This discordance in the materials of the opposition, prevented any harmonious concert of action and purpose at the first session of congress; but during the vacation and the succeeding session, great progress was made towards a stricter union between its different divisions, and before the adjournment, the party had assumed a consistent shape. At what time this more intimate union took place, it is difficult to ascertain; but shortly before the termination of the second session of the nineteenth congress, a leading opposition member from Virginia announced to the public, that the combinations for effecting the elevation of Gen. Jackson were nearly complete, and in fact greater concert was manifested in their party movements after that time. During the session several topics were introduced, developing the principles of

the opposition, and arraying the parties more distinctly against each other. Among these may be enumerated, the bankrupt act, the bills for the gradual improvement of the navy, authorizing dry docks and a naval school, the appropriations for surveys and internal improvement, the controversy between Georgia and the general government respecting the Creek treaty, the bills augmenting the duty on imported woollens, and closing the ports of the United States against British vessels from the colonies, after a limited period. On all these subjects the opposition party took ground, either from a real difference in sentiment from the friends of the administration, or from an unwillingness to permit any measure to succeed, which could reflect credit upon them. So great was this opposition to the business before congress, during the last session, that it was generally believed that the minority had concerted to stop the passage of all important bills, for the purpose of rendering those administering the government unpopular. The ordinary business of each day was opposed, with almost the same vehemence, as that which had a political bearing. In this manner much of both sessions was consumed, and as the adjournment of congress approached, many important bills were lost for want of time to mature their details, and to

reconcile the two houses upon points which a little reflection would have placed in a clear point of view.

The colonial bill was one which was peculiarly unfortunate on this account.

At the first session of the nineteenth congress, a bill was introduced into the senate, to accept, as far as practicable, the terms proposed by the British acts of 1825, regulating the intercourse of foreign powers with her West India islands. Owing to the long and interminable debates for political effect in that body at that session, this bill was not passed, and in the vacation the British government interdicted the trade. The next session measures of retaliation were proposed, but no definitive steps were taken until the close of the session, and by a disagreement between the two houses, the bill was lost, and the executive was compelled to close our ports in an abrupt manner, without any conditions.

The woollens bill was lost from a similar cause. The discussion on this bill, from the supposition that the north and west alone would be benefitted by its passage, at once assumed a party character.

The southern members, who formed the nucleus of the opposition, opposed its passage with unusual vehemence, and stigmatized it as an attempt to tax their constituents for the benefit of

the wool growers and manufacturers of the north. It finally was lost in the senate, after having passed the other branch of the legislature. The pressure of other business was the ostensible reason of its being laid on the table of the senate; but the political character of the senators, who voted for its postponement, plainly indicated, that political feelings entered largely into the cause of its defeat.

The opposition to the other bills was of a mixed character, proceeding partly from an unwillingness to increase the patronage of the general government, and partly from apprehensions of an invasion of the rights reserved to the states. Indeed, the party attachments of the members of the opposition had now become so strong, as to induce them to forego their own opinions as to the constitutional powers of the government; and while this sacrifice of political opinions was made by the friends of the Vice President and the earlier friends of Gen. Jackson, to propitiate that class of politicians, who contended for a narrow construction of the federal compact, the latter were induced to relinquish their doubts as to the political orthodoxy of the Vice President, for the sake of union, and, after nearly two years of doubt and hesitation, joined in denouncing the administration as corrupt in its origin.

In this manner the sectional



character of the opposition was modified, and, although local interests and prejudices still predominated in its councils, its principles, which now affected the construction of the powers of the government itself, were adopted by the inhabitants of other parts of the country, and assumed a consistent and decided character. On many subjects, but on none more than on the extent of the powers of the national government, it differed from the friends of the administration. As a party, it contended for a strictness in the construction of the constitution, entirely at variance with the established practice of the government. It denied the rightful exercise of many powers, which had been hitherto unquestioned, and sought to reduce the federal government to a complete dependence upon the state governments.

The old arguments against the constitutional existence of the United States bank were revived, notwithstanding a contrary construction had been acquiesced in, almost from the first organization of the government; and the right of the national authorities to take an active part in any work of internal improvement was resisted, because it could not be exercised without acting upon the territory, and thus violating the sovereignty of an independent state. It was still more

vehemently denied, that congress possessed the power to impose any duty for the protection of domestic manufactures. The effect of the law was, by an extraordinary process of reasoning, urged as an argument against the constitutional right to enact it, and the motives of the members who voted for it, were invested with a retroactive power, so as to deprive them of the authority to pass a statute, which, if enacted upon different grounds, would have been clearly constitutional. This extraordinary doctrine, which, if correct, would have overthrown every revenue law in our statute book, was not only asserted by the leaders of the opposition in congress; but also by the legislatures of Georgia and South Carolina, the former of which went so far as to declare its own construction of the constitution to be correct, and that it would submit to no other.

The insubordinate and violent conduct of the government of the same state in relation to the Creek treaty, produced a collision between Georgia and the general government, and the decided steps which the president was finally compelled to take, (after the most earnest efforts to satisfy her claims,) in order to preserve the tranquillity of the country, and to maintain the integrity of the constitution, were reproached as

an unprecedented violation of state rights, and as menacing their sovereignty and independence. His declaration to congress, that "perseverance on the part of Georgia in acts of encroachment upon the territories secured to the Indians by a solemn treaty, would compel the executive of the United States to enforce the laws, and fulfil the duties of the nation, by all the force committed for that purpose to his charge," was represented as an attempt to intimidate the state authorities by the United States military. Whilst these specific complaints were openly made, of encroachments upon the rights reserved to the states: general accusations were propagated of a systematic design, on the part of the last as well as of the present administration, to destroy the local governments, and to consolidate all the powers of sovereignty in the federal government. The new subjects which, in the pressure of other matters, had been overlooked: but which the developed wants of the community had now forced upon the attention of congress, were all enumerated as new instances of a departure from the constitution; and the expenditures of a government over twelve millions of people, were compared with its expenses, when the population did not equal half that number, and the increase was relied on to prove the corruption and ex-

travagance of those who administered it.

These topics were not only urged in the speeches in congress, but were mentioned in the messages of some of the state governors, who were inimical to the administration; and in a letter from a distinguished leader of the opposition, to the legislature of New-York, after expressing his acknowledgment for his re-election to the senate, he proceeds to say, that he shall zealously exert himself to protect the *remaining* rights reserved to the states. Every thing indicated, that a division of parties was about to take place, and that one of the main grounds of the opposition, would be that the powers of the national government ought to be diminished. Besides the obnoxious measures which excited so much warmth, doctrines and principles were cited as a justification of the opposition to the present administration.

The recommendations of the president of a national university, an astronomical observatory, and of other objects of general interest, were particularly criticised, as proofs of the tendency of the national government to consolidation; and the authority to create such institutions by congress was denied, on the ground that no specific grant of such power existed in the constitution.

On the other hand, the friends of

the administration contended, that these subjects were necessarily matters of national legislation, and that those, to which the strongest objections were made, were in conformity with the settled practice of the government. The power of making internal improvements, had been repeatedly sanctioned in congress by a continually increasing majority; and that of promoting domestic industry, by augmenting the duties on imported goods, was one of the powers first exercised (and with that express view) by the federal government upon its organization in 1789, and at that time was not questioned by any party. The uniform practice of the government was appealed to, and the debates in the state conventions called to ratify the federal compact, were cited, to prove that these were among the evils which the constitution was intended to remedy, and to show, that such was the contemporaneous construction of that instrument.

Whilst the constitutional objections to the exercise of these powers were thus discussed by the opponents and the friends of the administration; a much larger number were induced to espouse the opposition party, from a belief of the inexpediency of exercising them, although they conceded, that they were within the legitimate scope of its authority.

This objection, as to their inex-

pediency, was especially urged against the propriety of using the power of the federal government, for the purpose of making internal improvements, and also to any augmentation of duties with the view of encouraging domestic manufactures.

An unwillingness to introduce into the national councils so pregnant a source of dissensions, as the power of making roads and canals, and an undisguised reluctance to invest the general government with the patronage naturally flowing from this power, induced some to array themselves against this policy, who were in general satisfied with the administration of the government. Obvious considerations, derived from the science of political economy, were also urged against any system for the protection of domestic industry. The mercantile part of the community, in especial, was strongly impressed with the inexpediency of such measures, and a large portion of that class, in the middle states, alleged that as their ground of opposition to the administration. Had the party in opposition to the government confined itself to objections, either growing out of a difference of opinion as to its powers, or the mode of administering it, the political contest must have been conducted with calmness, and the reason of the electors, and not their passions, would have predominated at the polls. Unfortunately, how-

ever, charges imputing personal dishonour, both to the president and the secretary of state, were widely circulated by the partisans of the opposition, though not in such a shape, as to enable those interested in refuting them to take any public notice of the accusation. In the mean time, the public mind was exasperated by these insinuations, which, although unproved, were widely diffused. Criminations and recriminations became frequent. Improper motives were imputed to the leading men of both parties, and an embittered feeling began to take the place of the calmness and tranquillity, which had hitherto predominated in the political world.

At length the charge of bargain and intrigue proceeded from a quarter, which called for an answer, and brought on an investigation, that resulted in the complete acquittal of the parties accused.

Directly after the adjournment of the 19th congress, a letter, dated March 28th. 1825, appeared in the public newspapers, purporting to relate a conversation with Gen. Jackson, in which he said that Mr. Clay's friends in congress proposed to his friends, that if they would promise for him, that Mr. Adams should not be continued as secretary of state, Mr. Clay and his friends would at once elect Gen. Jackson president, and that he (Gen. Jackson) indignantly rejected the pro-

position. This accusation was immediately repelled as untrue, and Mr. Beverly, the author of the letter, being severely attacked in the newspapers, on account of it, wrote to Gen. Jackson for a confirmation of his statement. In reply to this letter, Gen. Jackson gave an account of the negotiation which was commenced with him in relation to his advancement to the presidency.

According to his statement, early in January. 1825, a member of congress, of high respectability, visited him, and after some preliminary remarks concerning a great intrigue which was going on, said that he had a communication to make, which, after some apologies on his part, and Gen. Jackson's permission, he proceeded to make, in the following manner:

He said that he had been informed by the friends of Mr. Clay, that the friends of Mr. Adams had made overtures to them, saying, if Mr. Clay and his friends would unite in aid of the election of Mr. Adams, Mr. Clay should be secretary of state. That the friends of Mr. Adams were urging, as a reason to induce the friends of Mr. Clay to accede to their proposition, that if I was elected president, Mr. Adams would be continued secretary of state, (meaning, there would be no room for Kentucky.) That the friends of Mr. Clay stated, the west did not wish to separate from

the west ; and if I would say, or permit any of my confidential friends to say, that in case I was elected president, Mr. Adams should not be continued secretary of state, by a complete union of Mr. Clay and his friends, they would put an end to the presidential contest in one hour. And he was of opinion it was right to fight such intriguers with their own weapons. To which, in substance, I replied, 'that in politics, as in every thing else, my guide was principle ; and contrary to the expressed and unbiased will of the people, or their constituted agents, I never would step into the presidential chair ;' and requested him to say to Mr. Clay and his friends,

for I did suppose he had come from Mr. Clay, although he used the term of Mr. Clay's friends, 'that before I would reach the presidential chair by such means of bargain and corruption, I would see the earth open and swallow both Mr. Clay and his friends and myself with them. If they had not confidence in me to believe, if I was elected, that I would call to my aid in the cabinet men of the first virtue, talent and integrity, not to vote for me.' The second day after this communication and reply, it was announced in the newspapers that Mr. Clay had come out openly and avowedly in favour of Mr. Adams."

In this letter Mr. Clay's friends

were directly charged with having proposed to Gen. Jackson, through a distinguished member of congress, to vote for him, in case he would declare, that Mr. Adams should not be continued as secretary of state ; and it was insinuated that this proposition was made by authority of Mr. Clay ; and, in order to strengthen that insinuation, it was asserted that immediately after the rejection of the proposition, Mr. Clay came out openly for Mr. Adams. To these charges Mr. Clay gave at once an unqualified denial so far as he himself was concerned, and professed his entire disbelief in them as it respected his friends ; and after speaking severely of Gen. Jackson as his accuser, expressed his strong gratification "that a specific accusation by a responsible accuser had at length appeared." In the letter making this statement, Gen. Jackson had intimated his determination to give the name of the member of congress alluded to, in case Mr. Clay should, under his own name, deny all knowledge of the negotiation. In compliance with that promise, he now stated, that the person alluded to, was James Buchanan, a representative of Pennsylvania. He moreover, stated, that having always understood that Mr. Buchanan had, until that moment, been on familiar and friendly terms with Mr. Clay, he could draw no other inference, than that Mr. Buchanan

was authorized to make the proposition he did.

"His character with me, (says Gen. Jackson,) forbids the idea that he was acting on his own responsibility, or that under any circumstances he could have been induced to propose an arrangement, unless possessed of satisfactory assurances, that if accepted, it would be carried fully into effect." Under that impression, in answer to what he considered the cautiously submitted proposition of some authorized person," he said that he requested Mr. Buchanan to say "to Mr. Clay and his friends," what his sentiments were in relation to that proposition.

He, however, disclaimed making any charge against Mr. Clay, and denied having accused him of being privy to that communication.

This controversy having excited great interest, Mr. Buchanan found himself compelled to make a statement of the communication alluded to, which he immediately did, entirely exculpating Mr. Clay and his friends from all participation in the alleged proposition. He stated, that in the month of December, a rumour was in circulation at Washington, that Gen. Jackson intended, if elected, to keep Mr. Adams in as secretary of state. Believing that such a belief would cool his friends and inspire his opponents with confidence, and being a sup-

porter of Gen. Jackson himself, he thought that the General ought to contradict the report.

With the view of obtaining such a contradiction, after consulting several of the friends of Gen. Jackson, and, among others, Gen. Eaton and Mr. Markley, who coincided with him in opinion, as to the expediency of obtaining some declaration from the General, for the purpose of inducing the western members to believe, that Mr. Adams would not be continued by him as secretary of state, Mr. Buchanan, on the 30th of December, 1821, called on him.

After stating that such a report was in circulation, Mr. Buchanan went on to say, that he must perceive how injurious it must prove to his election—that no doubt, there were several able and ambitious men in the country, among whom I thought Mr. Clay might be included, who were aspiring to that office; and if it were believed, that he had already determined to appoint *his chief competitor*, it might have a most unhappy effect upon their exertions, and those of their friends. That unless he had so determined, I thought that this report should be promptly contradicted under his own authority.

To this Gen. Jackson replied, that though he thought well of Mr. A., he had never said, or intimated, that he would or would not, appoint him secretary of state. That

these were secrets he would keep to himself; and that if elected President, it should be without solicitation and intrigue on his part, and that he would go into office untrammelled, and at liberty to select the best men to fill the offices of the government.

Mr. Buchanan then asked permission to repeat this answer to any person he thought proper, which was granted, and here the conversation ended.

Mr. B. further stated, that he called on Gen. Jackson solely as his friend, and upon his own responsibility, and not as an agent for Mr. Clay, or any other person; that he had never been a friend of Mr. Clay during the presidential contest; and that he had not the most distant idea that Gen. Jackson believed, or suspected, that he came on behalf of Mr. Clay, or of his friends, until the publication of the letter making that accusation. Had he supposed that such an impression was entertained by Gen. Jackson, he should have hastened to undeceive him; but, after the conversation on the 30th of December, the subject was never again alluded to, or mentioned by Gen. Jackson, either in letter or in conversation with Mr. Buchanan.

Notwithstanding this full and explicit denial by Mr. Buchanan himself, of his having made any proposition to Gen. Jackson in be-

half of the friends of Mr. Clay, the cry of bargain and corruption was still kept up, and bold assertion and strong charge were substituted for proof. In the mean time, the accused parties were compelled by their stations to abstain from answering accusations, which were made without the authority of a name, and no evidence, from the very nature of the case, could be adduced to prove a negative.

At length, however, the only testimony which could, under such circumstances, be produced, was collected and laid before the public.

A circular letter was addressed to the western members, (for they alone were accused of having misrepresented their constituents,) who voted for Mr. Adams in the election by congress, in 1825, requesting to know, whether there was any foundation for the charge in the letter of Gen. Jackson.

To this circular their replies were equally clear and satisfactory. They all denied, (with the exception of Mr. Cook, who was deceased, but whose preference for Mr. Adams had always been so decided, as to render it unnecessary for him to explain his vote,) having been cognisant of any proposition made by Mr. Clay or his friends, to Gen. Jackson, or to any other person; and also explicitly disclaimed any negotiation with respect to their votes on that occasion. On

the contrary, the members from Ohio stated that they had determined upon voting for Mr. Adams previous to their being informed of the determination of Mr. Clay, and without having ascertained his views.

The members from Kentucky, who voted with Mr. Clay for Mr. Adams, expressed their ignorance of conditions of any sort having been offered by his friends to any person, on compliance with which their vote was to depend.

The members from Louisiana and Missouri concided in these declarations, and they all professed their belief in the falsehood of the charges made against Mr. Clay, on account of his conduct on that occasion.

In addition to this testimony, Mr. Clay produced letters from individuals high in the public esteem, in different parts of the country, and among others, from La Fayette, testifying to Mr. Clay's declarations to them of his preference for Mr. Adams over Gen. Jackson; and that these declarations were made previous to his leaving his residence in Kentucky for Washington, in the fall of 1824; and that he continued to express to his intimate friends, his determination to vote for Mr. Adams, in preference to General Jackson, through the months of October, November, December and January following, until he executed that

intention on the 9th of February, 1825, in the house of representatives.

This body of testimony completely overthrew the accusation respecting a bargain, and convinced the public that in voting for Mr. Adams in the house of representatives, Mr. Clay and his friends conscientiously discharged their duty; and that they could not have voted otherwise, without gross and palpable inconsistency. The opposition to the administration, had now however become so fully matured, that it no longer needed the adjuvant which had first given life and vigour to it. This occurrence may, in some measure, be attributed to the conduct of the administration itself.

Following up the principle promulgated in his inaugural address, of administering the government without regard to party, Mr. Adams had only regarded in the candidates for offices, their qualifications and integrity, and had not inquired whether they were friendly or hostile to his administration.

The correctness of this proposition as an abstract principle, is unquestionable; but the propriety of its application in practice, depends entirely upon the circumstances under which the government is placed: and it is in the application of general maxims to such circumstances, that the sagacity of the statesman is developed. It is true, that it is the duty of the pre-



sident of the United States, to consider himself as the head of the nation, and not as the leader of a party; and in the exercise of his official duties, he ought to assuage the bitterness of political divisions, and to reconcile the discontented to the existing administration; but it is no less his duty, to preserve in the hands of those of the same political principles, enough of power to secure their ascendancy, and to render their policy triumphant. No doctrine of political toleration requires a prostration of the party in power at the feet of the minority. Such, however, was the effect of the policy adopted by the president in his selection of public officers. From an over anxiety to avoid the appearance of rewarding political partisans, he conferred such offices as became vacant upon those, who either used the influence acquired from their stations against the government; or who sought, by a cold neutrality, to conciliate the esteem of its inveterate opponents. This policy of neglecting its friends, (for, from its frequency, it was generally regarded as its principle of action,) was sometimes accidental; but more often it proceeded from the practice of weighing the recommendations of candidates, which, though always more or less to be regarded, became almost the law of the government during the late administration, from the timidity and unwillingness of its head to assume responsibility.

It is, doubtless, necessary, for the executive of the United States, in conferring patronage, to give due consideration to recommendations of particular individuals, as furnishing strong evidence in behalf of their qualifications; but still, these certificates are so easily obtained, through the good nature of those signing them, or, by the importunity of friends, that they ought to be received with many allowances. Under the administration of Mr. Monroe, the undue weight attached to such testimonials, removed all responsibility from the executive; and what was still more mischievous, encouraged the members of congress to invade his prerogatives, and to insist on being consulted, in the exercise of his duties.\* It was therefore expected, that an effort would be made by his successor, to check a practice, pregnant with such injurious consequences. It was more confidently expected, not only from the character of the executive himself, but because, as the late contest had been, in some measure, between the personal partisans of the several candidates, and not altogether upon irreconcilable differences of principle, it was at once perceived, that if the weight of recommendations was to be the passport to public station, the friends of the other candidates would, by uniting, completely exclude the friends of the successful candidate from all pretensions to his support. This

was in fact done to a great extent, and while the opposition to the administration concealed its views, and did not fully declare its hostility; by uniting in favour of candidates lukewarm in their attachment to the federal government, it succeeded in excluding its decided friends from official stations, and in filling them with persons willing to promote its views.

In this manner the influence derived from the patronage of the general government was exercised against it, rather than in its favour: and the singular spectacle was presented of an administration openly and violently opposed by those whose influence in society, and whose very means of subsistence, were dependent upon its will.

This hostile spirit also existed among many of those whom the present administration found in office, and who were continued in their stations by its liberality; and where it did not exist, it was created or excited into activity by this tolerant policy, which, according to their construction, savoured of timidity.

This policy was severely reprobated by many of the friends of the administration, as suicidal in its effects, and unjust in principle; and its enemies, perceiving that it disheartened and disorganized its supporters, made every effort to promote its continuance by condemning every appointment of a friend,

as a corrupt exercise of executive patronage.

In a period of great excitement, when the attention of every elector is intensely fixed upon the measures of the government, the policy of neglecting the natural means of sustaining an administration, by surrounding it with friends in stations of honour and profit, may be more safely omitted. The success of public measures may then with perfect propriety, be trusted to the intelligence and judgment of the community. But when the public mind is in a quiescent state, and the electors take their opinions from men in public stations and leading politicians, instead of forming them upon their own investigation: it then becomes necessary for the government; if there be anything of principle in its policy, and it be not merely a contest for office, to place those in power, who hold similar opinions on the leading questions of foreign and domestic policy.

By not adopting this obvious maxim of justice and patriotism, the administration finally succeeded, in surrounding itself with enemies instead of friends; in confirming its opponents in their hostility; in exciting the selfish passions of political adventurers into action; and in exasperating the elements of political discord, until the attention of the whole community was attracted to the disputes of parties.

whose existence, if not originating in this policy, was promoted and invigorated by it.

Notwithstanding the fierceness of these party disputes, the country rapidly advanced in prosperity and wealth, and the government steadily pursued the policy of promoting the great works of internal improvement commenced under the act of April 30, 1824, and of developing the resources, and encouraging the domestic industry of the country. The Board of Engineers created by that act, were this year employed in prosecuting surveys between the Potomac and the Ohio, with the view of ascertaining the practicability of connecting those streams by a canal. This survey was completed, and a report made in favour of the practicability of the plan, the cost of the canal being estimated at \$22,375,000. Other routes for canals were examined in addition to those surveyed last year, viz. from the Chesapeake and Ohio Canal to Alexandria—from the Alleghany River to the Susquehanna and Schuylkill—between the Delaware and Raritan—between Barnstable and Buzzard's Bays—from Lake Memphremagog to Connecticut river—from Lake Michigan to the Wabash, and thence to White river—between the Tennessee and Chosa rivers—between the Potomac and Rappahannock—from Mahoning river at Warren, to the summit level of the Ohio canal—between the Missis-

sippi and Lake Borgne—from Taunton to Weymouth—from Lake Champlain to the Connecticut river, through Onion and White river valleys—from Lake Champlain to Lake Memphremagog—between the Neuse and North rivers—between Elizabeth river and Lockwood's Folly—and canals to connect the Chesapeake and Ohio canal with the Pennsylvania canal, and to overcome the obstructions at the falls of the Ohio. For these canals, routes were surveyed, either in whole or in part, and routes for roads between the following points were also examined: between Washington and New Orleans—from Baltimore to Philadelphia—from Washington to Buffalo—from Memphis Town to Little Rock in Arkansas—and for the continuation of the Cumberland road to Washington at one end, and to the capitol of Missouri at the other. The actual construction of this road was continued from Canton to Zanesville in Ohio. Other roads were also projected, and the active employment of the engineer corps in this manner, concentrated a mass of topographical information in the department at Washington, which was more than equivalent to the additional expense to the public. The face of the country was explored, its resources and capabilities developed, and the stock of useful and scientific knowledge increased.

Besides these surveys and ex-

annations of routes for roads and government was directed to the canals, the attention of the general following subjects, viz :

	Estimated cost
Improvement of the navigation of the Connecticut river, from Barnet, Vermont, to Lake Connecticut,	
Improvement of the navigation of Kennebeck river, from Bath to Seawhegan,	
Survey and level of the Androscoggin river,	
Surveys of the mouth of Black river and Coarcted creek on Lake Erie, with a view to their improvement	
Improving the navigation of the Tennessee river,	
Improving the navigation of the Ohio and Mississippi rivers,	
Deepening the channel leading into the harbour of Presqui- Isle, on Lake Erie, of which the cost was estimated at	35,223 18
Repairing Plymouth beach	38,896 90
Building a pier at Steele's Ledge, near the harbour of Bel- fast, Maine,	1,200 00
Preservation of a point of land forming Provincetown har- bour	2,500 00
Removing obstructions to the navigation of Penobscot river,	
Building a light-house at the harbour of Edgartown, and preventing the harbour from filling up with sand,	1,273 56
Deepening the channel over the bar at the mouth of Mer- cumack river,	32,080 27
Improvements in the harbour of Hyannis to facilitate an- chorage of vessels,	10,650 00
Building a pier, and repairing the old one, on the mouth of Buffalo creek, New-York,	49,000 00
Cleaning out and deepening the harbour of Sacket's Har- bour, New-York,	3,000 00
Improving the navigation of the bay and harbour of Os- wego,	33,348 61
Building piers and repairing old ones, and deepening the water around them, at Newcasile, Delaware,	25,000 00
Survey of the public piers at Chester, in the river Dela- ware, to determine upon the expediency of accepting the cession thereof from Pennsylvania.	

Removing obstructions at the mouth of Grand river, Ohio,	14,755 11
Removing obstructions at the mouth of Ashtabula creek, Ohio,	14,403 50
Removing obstructions at the mouth of Cunningham creek, Ohio,	3,517 76
Removing obstructions at Huron river, Ohio,	9,413 35
Improving the navigation of La Plaisance Bay, Michigan,	3,977 81
Survey of Sandusky Bay, to ascertain the expediency and expense of constructing piers, to improve the navigation thereof,	
Removing obstructions to the navigation of Saugatuck river,	1,500 00
Survey of the swash in Pamlico sound, near Ocracoke in- let, for the purpose of ascertaining whether the chan- nel through the same can be deepened,	
Survey of Cape Fear river, below the town of Wilmington, N. C., with a view to its improvement,	
Survey of Roanoke inlet and sound, with a view of ascertain- ing the practicability of making a permanent ship chan- nel between Albemarle sound and the Atlantic ocean, at Roanoke inlet, or elsewhere,	
Removing obstructions, and deepening the harbour of Mo- bile,	8,000 00
Surveys of Marblehead and Holmes' Hole,	
Erecting a pier at the mouth of Dunkirk harbour, New York,	9,000 00
Improving Cleveland harbour, Ohio,	10,000 00
Improving the harbour at the mouth of Pascagoula river,	25,500 00
Surveys to ascertain the expediency and expense of con- structing piers to improve the harbour of Church's Cove, in the town of Little Compton,	21,062 85
Surveys to ascertain the expediency and expense of erect- ing a pier in Stonington harbour,	37,115 00
Examining the public piers at Port Penn, Marcus Hook, and Fort Mifflin, in the river Delaware, with a view to re- pairing and improving the same,	91,689 33
Removing the Colbert shoals in Tennessee river	

Removing the obstructions in the Kennebeck river, at Lovejoy's narrows,	6,500 00
Erecting piers and removing obstructions at and near the entrance into the harbour of Sacon,	7,000 00
Survey of the harbour of Mill river, with a view to the erection of a beacon, on a ledge of rocks, about one mile from the town,	6,201 20
Survey of the shoal at the north end of Goat Island, in the harbour of Newport, Rhode Island, with a view to building a wall to the extremity of that shoal.	13,669 12
Survey of the river and harbour of Warren, with a view to erecting a pier in Warren river near the entrance into Warren harbour.	3,953 25
Examination and survey of the muscleshoals in Tennessee river, with a view to the improvement of its navigation.	

The means adopted to preserve Plymouth beach and certain islands, in order to protect some of the eastern ports, by means of sea walls, were found, by the experience of the winter, to be effectual.

The improvement in the navigation of the Mississippi and Ohio rivers, by the removal of snags and other impediments in their channels, was this year prosecuted with great success. The obstructions were removed in the former river for 180 miles below the mouth of the Ohio.

Besides these efforts made by the general government to improve the means of internal communication, the state governments devoted their resources with unparalleled zeal to the same object; and canals and roads were laid out

in various directions; plainly evincing that a new era had commenced with the American people, and that their views and policy would hereafter be turned homeward.

The manufacturing establishments, which had been in a languishing state since the war, and which last year had given proofs of their ability to supply the wants of the country at a fair price, now furnished still stronger evidence of their stability, and assumed a high rank among the branches of national industry. They even began to enter into competition with European manufactures in foreign markets. In the year ending September 30, 1826, the value of domestic manufactures exported, amounted to \$5,852,733, of which \$1,138,125 consisted of cotton

piece goods. The woollen manufacturers, from peculiar circumstances, which are detailed in a subsequent chapter, did not partake of this general prosperity, but continued to decline. Measures were brought forward in congress for their relief, but they did not pass into a law.

Notwithstanding this increase in the manufacturing capital of the United States, the unparalleled augmentation of registered and licensed tonnage at the same time; and the unusual activity among the commercial classes, after they had recovered from the check to enterprise, consequent upon the wanton spirit of speculation which prevailed at the beginning of the last year, showed that the prosperity of the manufacturers was not owing to a subtraction of capital from the shipping business, but was caused by the increase of the population and wealth of the country. The increase in the tonnage of the United States during 1826 was 111,079 tons, being more than double the increase in any one of the twelve preceding years.

In conformity with the plan proposed to settle the remaining tribes of aborigines on the western side of the Mississippi, provision was made by the war department, for the removal thither of such Indians as chose to emigrate. Within the year, the Shawnees, about 1400 in number, emigrated from the state

of Ohio, to a spot chosen by themselves; as did a portion of the Creeks, about 700 in number from the states of Georgia and Alabama. Efforts were also made to induce the Cherokee tribes to remove to the same portion of the union, and commissioners were appointed to hold a council with that nation, for the purpose of procuring a cession of territory, to gratify the claims of Georgia; but these Indians, who had succeeded under the fostering care of the general government, in attaining a high degree of civilization, refused to cede another foot of land.

The Chickasaw tribes, on the contrary, consented to remove beyond the Mississippi, upon the following condition: that after visiting and being satisfied with the country, they should receive acre for acre, and smaller improvements, to be made there at the expense of the United States; an executive territorial government to be established over them, with a suitable force for their protection, to be kept up at the expense of the United States. The number of Indian children educated at the schools this year, established at the expense of the American government, was 1291.

Whilst the arrangements were made among the southern Indians, the movements among the north-western tribes required more energetic measures. In that quarter

just previous to the arrival of the United States commissioners at a council held with the Sioux, Foxes, Chippewas, Winnebagoes, &c., to fulfil the treaty of pacification concluded between those tribes during the last year. (See vol. I. p. 47.) a portion of the Winnebagoes indicated hostile dispositions towards the whites, and finally attacked and murdered some American citizens.

As these movements were regarded as proofs of a powerful combination among these tribes, great promptitude was evinced in suppressing the evil.

Gov. Cass at once applied to Gen. Atkinson for assistance, and that officer ordered out 600 of the army under him, and with a portion of the Illinois militia, moved to the scene of hostilities, when the Indians submitted and delivered up the murderers, eight in number, to take their trial according to the laws of the United States.

With the exception of this disturbance, the domestic quiet of the country was uninterrupted, and the prosperity of the people evinced the excellence of their institutions, and the wisdom and prudence with which they were administered.





Sylvania, followed on the same side.

Mr. Wright then rose, and said, that, being entirely satisfied, that those who desired the passage of the bill, must take measures to secure a vote upon it, he should call for the previous question. The call was sustained by a vote of 89 to 74. The speaker having announced this decision, Mr. Hamilton moved for a call of the house, which was decided to be out of order. From this decision,

Mr. Hamilton appealed to the house, and, Mr. Saunders called for the yeas and nays on the appeal. After a long and animated debate, the decision of the speaker was confirmed, by a vote of 113 to 90.

The question being then asked, "shall the main question be now put?" the yeas were 105, and the nays 95.

The question now recurred on the engrossing the bill and reading it a third time, and was decided in the affirmative by a vote of 108 to 99.

An ineffectual attempt was then made to postpone the third reading until Monday the 12th, and it was ordered to be read a third time the next day.

The next day, however, the time of the house was occupied by a discussion which grew out of a message from the president, relative to the controversy between Georgia and the Creeks: and the

debate was resumed on Saturday the 10th.

Mr. Cambreleng then delivered his sentiments in opposition to the bill at length, and moved that it be read a third time on the 4th of March. This motion was withdrawn at the request of Mr. Buchanan, who moved its recommitment, with instructions comprehending the amendments offered by Mr. Hoffman, and in addition, amendments increasing the duty on imported foreign spirits to 10 cents per gallon; and on imported hemp to \$5 per ton. Mr. Lawrence warmly opposed this motion, as tending to defeat the bill, and after some debate the motion was negatived by a vote of 109 to 84.

Mr. Ingham now rose and opposed the bill in a speech of two hours, and upon his taking his seat, Mr. Bartlett and Mr. Hamilton rose, and both claimed the floor. The speaker having decided in favour of the former, Mr. Hamilton appealed to the house: and the decision of the speaker was confirmed: ayes 106, nays 57.

Mr. Mitchell, of Tennessee, then moved an adjournment, but the speaker decided that the motion could not be received, as Mr. Bartlett was in possession of the floor. Mr. Bartlett then demanded the previous question, and the house sustained the call: ayes 97, nays 85.

Mr. Mitchell now moved an ad-

journment, which was negatived : the yeas and nays being called for by Mr. Hamilton, yeas 90, nays 100. The previous question being put, was decided in the affirmative by a vote of 102 to 98.

Mr. Cambreleng then moved an adjournment, and called for the yeas and nays on this question, but the house refused to order them, and the motion was negatived : yeas 81, nays 105.

The question now recurring on the passage of the bill, it passed by a vote of 106 in the affirmative, and 95 in the negative, and was sent to the senate for concurrence.

According to the usage of that body, the bill received two readings; and on the 15th of February, the second day after it was received, Mr. Dickerson moved that it be referred to the committee on manufactures, and Mr. Hayne moved its reference to the finance committee. Some discussion arose on the point of precedence, and before it was settled, Mr. Tazewell moved that the bill lay upon the table. This motion was rejected, 17 yeas, and 28 nays : and Mr. Eaton then moved its reference to the finance committee, but the chair decided that Mr. Dickerson was entitled to the floor.

Mr. Hayne was in favour of a reference to the finance committee. The bill contemplated an increase on the duties on foreign goods, and it was proper to submit it to that

committee. It had been taken for granted, that the subject entirely concerned manufactures, but it was not so; for whatever effect it might have on the manufactures of the country, it certainly would affect the revenue.

Mr. Dickerson remarked, that the committee on manufactures already had the subject under consideration, and now to refer it to another committee, would be only a mockery of the committee on manufactures.

Mr. Smith, of Maryland, advocated the reference to the finance committee, as it comprised a question of importance to the finances of the country. He was sorry to see that a disposition had been manifested of late years, to take the business from that committee and give it to others. This was likely to produce evil effects, as the other committees were not immediately interested in the finances. The reference to the committee on manufactures, he thought, was very improper, for the chairman of that committee seemed to be infected with a manufacturing mania, and he rode his hobby horse so hard, that he would deprive the finance committee of all its business, if care was not taken.

Mr. Holmes said, that the mania referred to might be contagious, and that he had probably caught it, for his argument operated against himself. The bill to reduce the duty on

salt had been supported by that gentleman, and although it was a subject affecting finances, it sprung from the committee on agriculture. The revenue he considered as convenient, a hobby horse as any other, and to be mounted, either to advocate or oppose any subject whatever. When the bill to reduce the duty on salt was before the senate, the gentleman from Maryland supported it. He had no fears of the revenue then; but now great apprehensions were entertained on that score. The committee on manufactures had so far acted upon the subject, and the reference to them appeared to be perfectly proper.

Mr. Dickerson denied that the committee on manufactures would disregard the interests of the revenue; and he did not consider that this subject properly came within the scope of the duties of the finance committee, which were the consideration of the means to raise the revenue of the country. He had another objection to submitting the measure to that committee. It was evidently hostile, and he felt great aversion to committing the bill to such a guardian. The rule of the senate was, to refer measures to a favourable, rather than a hostile committee; and he hoped that that would now be the case.

After some few additional observations from Messrs. Hayne, Holmes, and Van Buren, the ques-

tion on referring the bill to the committee on manufactures was decided in the affirmative, 25 to 21.

On the 15th, the bill was reported without amendment, and on the 19th Mr. Dickerson moved to take up the bill, in order to make it a special order for the next day. Mr. Benson opposed the motion, and proposed a reference to the finance committee. Mr. Dickerson said he was convinced that that reference would destroy the bill. If it is to be acted on, it must be acted upon soon; and delay is as fatal as rejection. He considered the motion as intended to defeat it, and called for the yeas and nays on the question.

A long discussion then ensued between the friends and opponents of the bill as to the propriety of this reference. The latter contending, that the proper committee ought to report what would be the effect on the finances, and the former, that such information could be given as well in debate, and that any further reference would be equivalent to a rejection of the bill.

Upon taking the question, 23 of the senate appeared to be in favour of a reference to the finance committee, and 21 against it.

Mr. Benson then moved its recommitment, with instructions to augment the duty on wool, so as to make it equal to the duty on cloth.

Mr. Dickerson said, this amendment could be made without a re-

commitment. The question being taken, the vote stood as before: 23 affirmative, 24 negative.

Mr. Benton again moved to recommit the bill, with the view of prohibiting the importation of foreign wool after the 1st of January 1828, and the motion was rejected, 25 to 22.

Mr. Reed then moved to recommit the bill, for the purpose of ascertaining whether its effect would be prohibitory; but the senate negatived the motion by the same vote as on the last motion. Mr. Macdonald now moved for its recommitment, with instructions to report its effect upon the agriculture, manufactures, and finance of the country, but the senate refused to recommit it, and, after another ineffectual attempt to postpone it until Wednesday, the question recurred on making the bill the special order, of the day, on Tuesday: and it was agreed to by a vote of 25 to 20.

The senate then proceeded to the discussion of a bill concerning certain land claims in Louisiana, which not having been brought to a termination, obtained the preference the next day.

On the 21st, a motion was made to take up the colonial trade bill, which, after some discussion, was carried, 26 to 19.

The discussion on this bill continued during the week, and the woollens bill remained the special order for the day, until the 27th

inst., when another effort was made by Mr. Dickerson to bring it before the senate, by postponing the military service bill. This motion was negatived by a vote of 25 to 20, and next day the bill came up in its course. Mr. Hayne then moved, that it lie on the table. This motion, at that late period of the session, was deemed equivalent to a rejection; and the arguments and votes of its friends and opponents indicated, that such was the question. The question being taken, the senate was equally divided, 20 on each side; and the vice-president gave his casting vote in favour of the bill's lying on the table, where it remained until the adjournment of the senate, and of course was lost.

The defeat of this bill occasioned much discussion all parts of the union, and it was instantly perceived, that the advocates of domestic manufactures were rather stimulated, than disheartened, by its defeat. Meetings were called in various districts, concerning the state of the woollen manufactures; and in Pennsylvania a state convention was proposed, for the purpose of delegating delegates to attend a general convention at Harrisburg, on the 30th of July, 1827, in relation to that subject. This proposition was acceded to with alacrity by the advocates of the American system in the other states; and local conventions were called in some of the

states most interested in woollen manufactures, for the purpose of selecting persons to represent them in the general convention. During the months of June and July, conventions were held at the capitals of the states of New-Hampshire, Massachusetts, Rhode-Island, Connecticut, Vermont, New-York, New-Jersey, Pennsylvania, Delaware, and Maryland; and men of the highest respectability and influence were appointed delegates to the Harrisburg convention. Delegates were also sent to the convention from the states of Ohio, Kentucky, and Virginia. Owing to the shortness of the time between the first call of a convention on the 14th of May, and the time of meeting on the 30th of July, the more distant states were not represented; but a meeting of more weight in point of character, talents, and influence, had been seldom assembled in the United States, than the Harrisburg convention. Upon their assembling, the delegates presented their credentials, and chose Joseph Rimer, of Pennsylvania, president, and Jesse Buell, of New-York, and Frisby Tilghman, of Maryland, vice presidents. Committees were then appointed to inquire into the state of the wool growing, and wool manufacturing business, and also into the state of the manufactures of iron, hemp, flax, glass, copper, cotton, and as to the propriety of affording

further protection to domestic distilled spirits, and to inquire into the effect of domestic manufactures upon the commerce and navigation of the country.

After investigating these subjects with great care and attention, reports were made to the convention, stating the following results, viz. that the manufacture of cottons in the United States, afforded a market for 175,000 bales of cotton annually; and that the printed cottons manufactured in the United States, amounted annually to 14,000,000 yards. The importation of cotton goods into this country in 1825, amounted to \$12,509,516; in 1826, to \$8,318,034; and in conclusion, it was recommended to augment the duties on imported cottons, by increasing the minimum valuation, to 40 cents per square yard.

The annual consumption of bar iron in the United States, was estimated at 70,000 tons, of which 28,000 were imported; and as the means of supply were undoubted, an increase of duty from 90 cents to 112 cents per cwt. was recommended; and a duty of one cent per pound on hammered bar iron, and a corresponding increase of the duty on steel, were also recommended. The glass manufactures were represented as being content with the present tax, although the importations of foreign glass, for 1826, amounted to \$513,915, besides 300,000 weight of glass, of which

the value was not given. Further protection was recommended to the grower and manufacturer of hemp and flax, and additional measures to discourage the importation of foreign spirits, and the distillation of spirits from foreign articles.

On the subject of wool, the principal object of the convention, the following duties were recommended: on raw wool, costing in foreign country over 8 cents, a duty of 20 cents per pound, with an annual increase of  $2\frac{1}{2}$  cents per pound, until it amounts to 50 cents per pound. The minimum valuation of all woollen goods, to be fixed at 50 cents per square yard, and a duty of 40 per cent, ad valorem recommended, with a progressive annual increase of 5 per cent, until it amounted to 50 per cent, duty.

All goods costing over 50 cents, and not over \$2 50 per square yard, to be valued at \$2 50, and similar duties to be levied. All goods costing more than \$2 50, and not over \$4 00, per square yard, to be valued at \$4 00, and similar duties to be levied. All goods costing over \$4, and not more than \$6 per square yard, to be valued at \$6, and similar duties ad valorem to be imposed.

On all woollen goods of a higher price, similar ad valorem duties to be laid. From these duties, blankets, stuffs, bombazeens, ho-

siery, nits, caps, and linings were to be excepted; but adequate protection to the domestic manufacture of blankets was recommended, and also measures to prevent the frauds of the foreign manufacturer and his agents on the revenue.

A memorial to congress, was drawn up in conformity with these recommendations, which, being unanimously adopted, the convention adjourned.

These proceedings, although hailed with great satisfaction by the friends of domestic manufacturers, did not pass without severe remark and criticism. In the southern states, the whole system was condemned, as hostile to their local interests, and as contrary to the spirit of the constitution. Meetings were held in some of the southern states, and resolutions were adopted, reprobating the policy and wisdom of a protecting tariff. In South Carolina, especially, the opposition feeling was very strongly developed. The chamber of commerce in Charleston, and the agricultural societies in some of the planting districts, originated memorials in opposition to the woollen duty; and no means were neglected to excite a strong public feeling throughout the country, to oppose any augmentation of the duty. While these open and decided steps were taken in opposition to it at the south, a more

covert and insidious hostility was  
inced at the north, on the part  
of those who coincided with them  
in opinion.

At several of the primary assem-  
blies, and in the state conventions,  
efforts were made to connect sever-  
al branches of domestic manufac-  
tures with that of wool, with the  
view of embarrassing the friends  
of the woollen manufacture, by the

introduction of other subjects,  
whose claim to the attention of  
congress rested upon other grounds.

These, however, were in a mea-  
sure unsuccessful, and the time of  
the meeting of the twentieth con-  
gress approached, under a general  
impression, that some effectual  
measures would be adopted for the  
relief of this important branch of  
national industry.





## CHAPTER VI.

*Treasury Report—Revolutionary pensions—Bill authorizing exchange of Stocks—Grant to Sufferers at Alcatraz—Salary of Postmaster General—Appropriations for the support of government—Army appropriations—Georgia militia claim—Indian appropriations—Appropriations for internal improvement—Fortifications—Naval appropriations—Bill for the gradual improvement of the Navy—Public Buildings—Correspondence between Mr. Benton and Mexican minister.*

IN PURSUANCE of the act of congress of May 10th, 1800, the secretary of the treasury, (Mr. Rush,) on the 12th December, 1826, transmitted to congress his annual report, on the state of the public finances.

By this document it appeared, that on the 1st January, 1826, the

balance in the treasury, amounted to \$5,201,650, being a difference of \$82,441 less than the estimate in the last annual report.

The actual receipts into the treasury during the first three quarters of the year 1826, were estimated at 19,585,932, arising from the following sources: *viz.*—

Customs,	\$18,931,425
Public lands,	1,053,964
Dividends from the United States bank,	402,500
Arrears of internal duties, and direct taxes, and incidented receipts,	80,493
Repayments of advances made in the war department, prior to 1815,	17,551
Estimated receipts during the last quarter,	6,800,000
<b>Total receipts,</b>	<b>25,885,932</b>
Expenditures during the first three quarters of the year, were estimated at	\$18,744,226
<i>Viz.</i> —Civil, diplomatic, and miscellaneous services,	2,020,334
Military service, including pensions, arrearages, Indian department, &c.	5,963,981

Naval service and building, &c.	3,321,333
Public debt,	8,093,581

Expenditures during the last quarter, were estimated at

5,917,817.

Viz.—Civil, diplomatic, and miscellaneous services	840,000
Military service, &c.	1,293,000
Naval service, &c.	900,000
Public debt,	2,002,307
Interest on do.,	912,510

Making the total expenditure of the year 21,662,643

And leaving an estimated balance in the treasury, on the

1st of January, 1827, of 6,425,538

Of this balance, however, about one million consisted of unavailable funds, deposited in insolvent banks: \$3,125,000 were balances of unapplied appropriations: and \$2,000,000 of money, reserved under the act of March 3d. 1817, to be carried to the account of the sinking fund.

The receipts for the year 1827, were estimated at	\$23,150,000
Viz.—Customs,	20,400,000
Public lands,	2,000,000
Bank dividends,	420,000
Miscellaneous and accidental receipts,	330,000

The expenditures at	\$20,702,951
Viz.—Civil, diplomatic, and miscellaneous	1,826,550
Military service, &c.	5,646,114
Naval service, &c.	3,230,260
Public debt,	10,000,000

Balance estimated, January 1st, 1828, \$2,447,046

The exports of the year, ending September 30th, 1826,  
exceeded \$78,000,000

The imports, 85,000,000

Of the imports, about \$80,000,000 were carried in American vessels, and about \$70,000,000 of the exports. Of these exports, about \$53,000,000 were of domestic production, and the

remainder of foreign origin. Of domestic manufactures, more than \$6,000,000 were exported.

The amount of duties, secured by bond, during the first three quarters of the year, was estimated at \$21,250,000; and the disbursements issued during the same time, amounted to \$3,840,869.

The total amount of funded debt, on the 1st of October,

1826, was 75,923,151

Consisting of, revolutionary debt, 3 per cents, redeemable

at pleasure, 13,296,247

Subscription to the United States bank, 7,000,000

Loan of 1818, redeemable in 1826 11,251,137

“ “ 1811, “ “ 1827, 13,096,543

“ “ 1815, “ “ 1828, 9,190,039

One half of exchanged stock of 1813, in 1829, 769,668

One half of “ “ “ 1830, 769,668

One third of “ “ “ 1822, 1831, 18,901

One third of “ “ “ 1832, 18,902

Loan of 1824, “ “ “ 1832, 10,000,000

Loan of 1820, “ “ “ 1832, 999,999

One third of “ “ of 1822, 1833, 18,901

One half of “ “ of 1824, 1833, 2,227,304

One half of “ “ of 1824, 1834, 2,227,304

Loan of 1821, 1835, 1,735,296

Unpaid treasury notes, 15,000

Unredeemed Mississippi stock, 7,100

The amount applied to the payment of the principal of the public debt within the year, was 7,067,039

For payment of interest, 3,944,359

Making altogether the sum of 811,011,398

• So that on the 1st of January, 1827, the amount of the pub.

lic debt of the United States will be reduced to \$73,920,844

The secretary, after furnishing of the commercial operations of statements concerning the public the country during the last year : finances, went into an examination and recommended an alteration of

the present revenue laws, with the view of protecting the staple domestic manufactures.

The bill for the payment of revolutionary and other pensions, amounting to \$1,573,240, was introduced at the commencement of the session, and passed without much opposition.

A bill, making a further provision for the officers of the revolution, which remained on the table of the house at the close of the last session, met with a different fate.

On the 5th of January, Mr. Burgess moved that the orders of the day be postponed, for the purpose of taking up this bill. The motion prevailing, the house went into committee of the whole: and Mr. Burgess commenced a statement of this claim, it having been sent back last year to the committee which reported it for explanation. The persons for whom provision was contemplated by this bill, comprehended two classes of officers—the first, the survivors of those who continued in service at the close of the war, about 400 in number; and the widows of those, deceased, supposed to be 347: the second, the survivors and surviving widows of those officers who had served nine months in the regular army. The number of this class was estimated at 5,515 officers, and 4,729 widows. For the first class, an appropriation

of \$1,000,000 was required; and, for the second class, the sum of \$2,000,000.

The circumstances under which this claim was made, were briefly stated as follows:

Shortly before the close of the revolutionary contest, on the 21st of October, 1786, the continental congress passed a resolution, promising each officer who should serve through the war, in addition to the pay then due, half pay for life. After the war, that body, being totally unable to perform its promise to these officers, offered, in 1783, to give them as an equivalent, five years full pay. According to a calculation founded upon the doctrine of annuities, the value of their half pay for life at that time, would have been equivalent to seven years full pay, and a fraction over. The general government, however, being insolvent, offered this equivalent, and the officers, unable to enforce their claim, accepted it. Even this equivalent was not paid. Certificates of what was due were issued; but as they were not redeemed at the treasury, they fell in price, and did not bring to the holders more than 25 per cent. of their nominal amount. Finally, these certificates were funded, upon the adoption of the federal constitution; but in consequence of the manner in which they were funded, the holders were compelled to relinquish

a part of the principal and interest.

The saving to the public treasury, by these several computations, amounted to more than \$3,580,000, besides the interest on that sum, ever since the existence of the government, a sum far exceeding the appropriation proposed by the bill for their relief.

No attempt is made to do justice to the eloquent speech of Mr. Burgess, in behalf of these gallant relics of the war of independence. It is difficult to make out a stronger claim, than that presented in the simple history of their services, and the manner in which they were rewarded. Still there were representatives from states, which owed their existence to the courage and enduring fortitude of that very army, whose venerable leaders were now asking justice at their hands, who opposed themselves to the claim, upon the most trivial grounds.

Mr. Mitchell, of Tennessee, was unwilling to recognise the distinction between the soldiers and the officers, and contended that in making a promise to the latter only, the continental congress did wrong, and therefore he would not vote for a bill which, according to his construction, repudiated and degraded the common soldiers. He also wished some provision made for the militia, whose services during the revolutionary contest, as

well as in the last war, he highly praised.

The next day, Mr. Tucker moved a resolution, directing the secretary of war to report to the house, the names and places of residence of those entitled to relief under the proposed bill.

This motion was opposed, as tending to defeat the bill, by postponing it to another congress; and after a short debate, it was negatived by a vote of 106 to 80.

Mr. Wickliffe then proposed to amend the bill, so as to include the heirs and legal representatives of deceased officers.

This amendment was opposed by the friends of the bill, as it would either render the relief proposed nugatory, by increasing the number among whom it was to be divided; or it would cause the defeat of the bill, if the sum appropriated should be augmented, so as to remedy that objection.

It was, however, adopted by the house, by a vote of 104 to 80.

The next day, an ineffectual attempt was made to reconsider that vote. Mr. Burgess moved, that it be re-committed for the purpose of increasing the appropriation. This motion was carried by a vote of 97 to 92. The powerful opposition now manifested to these claimants, convinced many who had hitherto supported them, that no law for their relief could be passed at this congress; and that persisting in

urging the further consideration of the subject, would be consuming, to no purpose, the remainder of the session. The object was, however, relinquished with great reluctance, and two more efforts were made for their consideration: one on the 22d of January, when a new proposition was made by Mr. Condit, which was ordered to be printed. On the 26th of January, a second attempt was made to bring on the bill; but the house refused to consider it, by a vote of 88 to 87. This refusal sealed the fate of the bill, and its advocates were compelled to relinquish all further efforts in its favour at this session.

The misplaced economy evinced by many of those who defeated this bill, was strikingly contrasted with their conduct, on the consideration of a bill introduced January 9th, by the committee of ways and means, in conformity with the recommendation of the secretary of the treasury, authorizing an exchange of sixteen millions of the 6 per cents. for a stock bearing 5 per cent. interest, and redeemable half after 1828, and the residue after 1829.

By this exchange it was estimated that a saving would be made of upwards of \$413,000. Mr. Verplanck preferred the issuing of treasury notes to an exchange of stocks; and proposed an amendment, authorizing the president, if he thought proper, to issue such

notes, payable in one year, eighteen months, or two years, with interest from the issuing thereof, and to borrow money on the credit of such notes. This amendment, being suddenly introduced, had the effect of postponing the question on the bill, until the woolens bill, which was brought up the next day, had passed the house. This occurred on Saturday, the 10th of February; and on the 12th, this bill, with the amendment, was again taken into consideration.

Mr. Cook objected to the amendment, on the ground that the issue of treasury notes was only appropriate to an emergency, and was impolitic in time of peace. He also objected to throwing so large a sum as \$16,000,000 into the circulating medium of the country, to be withdrawn after a short period. They could not be used as bank deposits; and although they might be absorbed through the custom house, and land offices, this would only operate to defeat all calculations as to the probable receipts of the year, and embarrass the operations of the treasury.

Mr. Verplanck replied to Mr. Cook, and illustrated his amendment, by comparing government to a rich planter owing money, and whose notes were preferred to his bond, because they were more negotiable.

He also asserted, that these notes, during the last war, were at

par, or a little below it, when 6 per cent. stock was 25 per cent. below par; and that the exchequer bills of England were more in demand than any other species of government securities.

The inconveniences apprehended by Mr. Cook, might be easily obviated by proper provisions in the bill. He insisted on the economy of the measure, as saving from 1 1/2 to 2 per cent.

Mr. McLane assented to the general principles advanced by Mr. V. but denied their application to the present case. The object of the bill was not to obtain money for a present purpose at a low rate, but to reduce the interest of the public debt, and to keep it in the hands of the present holders.

If they did not continue to hold, resort must be had to the United States bank; and he did not wish that institution to hold sixteen millions in addition to the seventeen millions it now holds. He was also opposed to the government's converting itself into a great bank. It was obliged, by necessity, during the war, to resort to this expedient; but the moment the necessity ceased, the treasury notes were withdrawn and funded. If these notes became a circulating medium, they would embarrass every bank in the country; and if they did not, they would be concentrated in the Uni-

ted States bank, and add so much to its capital.

Mr. Cambreleng agreed that the object of the bill was to give a preference to the present holders of stock; but contended that the proposed amendment would not interfere with that object. He thought that the proposed issue would not affect the capital of the country; but that the treasury notes would be a great convenience, and supply the place of bills of exchange, which now were at a premium.

Mr. Dwight insisted that the proposition in a government's situation as ours is, was a perfect novelty. No government that was able to pay the interest of its debt, ever resorted to such an expedient. The precedent of England was not in point. She owed £50,000,000 for her annual interest, and it was under such circumstances that her exchequer bills were issued. The United States owe no debt now due. It is at the option of the government to pay it or not; and if it thought proper to pay it, it would be from motives of economy.

Mr. Livingston was in favour of the amendment, because it introduced competition. Should it not prevail, there would be but two competitors; if it did, all the world would come in. The plan could not be said to make the government a bank: for a bank was a



lender, but government was a borrower. He denied that the treasury notes would ever find their way to the bank of the United States; but, if they did, they would throw so much of United States bills *into*, not *out* of circulation.—He believed they would remain in the hands of moneyed men, who wished to lend—and the circulation would remain as it is. He insisted on the convenience of these notes, as a means of remitting funds through the country, and avoiding the premium now charged by the bank of the United States, which had a monopoly of that business.

Mr. Sprague insisted, that there would be as much competition without treasury notes as with them. All the capitalists would be competitors, as well as the bank of the United States. The only reason why treasury notes would be received at a lower interest than stock, was, their approximating to money. Exchange bills were used as money in England, and the amendment would be useful only as it produced this effect, and made the government a great bank. This he thought not desirable, but dangerous, and highly inconvenient to the treasury, which could make no certain calculations, and might be thrown into the utmost embarrassment. It would divide with a department the power of the commissioners of the sinking fund, and while the latter were

obliged to apply ten millions to the public debt, the treasury might receive ten millions of these notes in the same year, and thus twenty millions would be applied to the public debt, and other necessary expenses of government left unprovided for. These notes must be paid the moment they are presented, and could not be deferred, like stock, to suit the state of the treasury. This might be a source of great inconvenience. The amendment contained no appropriation for the expense of the issue, &c.

Mr. McDuffie said, that the course of the argument had changed his opinion, and convinced him that the amendment was expedient. He admitted that these notes would closely approximate to money, and this was, in his opinion, the excellency of the plan. If they were still more like money, the United States could borrow on these securities at one-fourth per cent. The nearer they approach to money, on the better terms the loan upon them could be effected. If the sixteen millions should be issued in stock, the bank of the United States would issue bills upon it, and make the whole profit; but if treasury notes were issued, that profit would be saved to the government. He was not sure that a payment by treasury notes would not fulfil the law which establishes the sinking fund; but if not, a provision of that kind might easily be introduced into the

subli. Capitalists ought not to be preferred—but those who had lent to the government in its need were entitled to a preference, provided they took the same interest as was offered by others. If treasury notes were a safe expedient in an emergency, why not when the pressure was less? The whole question resolved itself into this—will government borrow at a low rate from small capitalists, or at a higher rate from large ones?

Mr. Wood, of New-York, insisted that the competition contemplated by the bill, was a competition between stocks, and not between individuals. He deprecated throwing sixteen millions of paper into the circulation of a country, which had already three hundred millions of paper currency, and needed but twenty millions. This depreciated the value of gold and silver, and of all commodities; until this excessive issue of paper could be stopped, the country would need a new tariff every three years.

Mr. Cook replied to Mr. M.D., and denied that any paper could pass as cash, unless it could be converted at all into cash. The bank of the United States could not trade in these notes, because that was expressly forbidden in the charter. [Here Mr. M.D. explained.] Mr. Cook proceeded, and insisted, that the only effect would be to increase the circulating medium; encourage

importation from abroad; and defer the payment of the public debt.

Mr. Verplanck offered an amendment, the object of which was to secure to the present holder, the first offer of an exchange of stock, and if they refused, then to leave government the option, between a loan, and the issue of treasury notes.

Mr. Whipple denied, that these notes would afford any better circulating medium than bank notes. He insisted that treasury notes had depreciated during the last war to 25 per cent. below par. They never could be forced into circulation. The only effect would be, to force the bank of the United States to loan at a rate lower than was proper, but would not add an iota to the value of foreign exchange. He considered it a jockeying business, by such means to compel the loan at so low a rate. It would better become an American legislature, to ascertain the fair rate, and to pay it.

Mr. Alston thought the amendment the best part of the bill. He insisted, that the basis of the credit of treasury notes was better than that of any bank notes, and that their credit would be sustained. Should the government go on with loans, the United States bank would soon hold United States' stock to the whole amount of 35 millions, the amount of its capital. He thought that the object to be effected by an exchange of stock was

not worth consideration—but the issue of treasury notes he thought a proper measure.

Mr. McCoy briefly remarked on the amendment, which he thought the worst part of the bill. He denied that treasury notes would raise the paper of the United States. Their only use would be to pay the taxes, and then they would embarrass the treasury. He viewed the object of the bill to be to get a loan. He had no idea any exchange of stocks would take place.

Mr. Forsyth made some inquiries as to the expense of the issue of these notes, and the guards against forgery. He feared, if the present holders were allowed a preference, it would hereafter be claimed by holders as a right. Stock dealers were usually governed more by avarice than patriotism.

Mr. Cook referred him to the mover of the amendment.

Mr. Dwight said, that the issue would require a new department. The treasury already had no money, then it could perform.

Mr. Verplanck made a long reply to several of the objections which had been urged. The expense of issuing the notes would be less now than it had formerly been, as the denominations need not be so small, and the arts were more improved. There was no need of a home department. The capitalists would be an efficient substi-

tute for any such department. The interest due on each note would not be hard to calculate, and would be no obstacle to their use. He denied that such bills were resorted to only in a state of national distress. This was not true of the exchequer bills in England; and they formed the only part of the British debt which had maintained its credit; they were now at an advance of  $2\frac{1}{2}$  per cent. As to the United States' bank being the only bidder for the loan on stocks, that conclusion was warranted by the experience of the country in all large loans. But treasury notes would induce competition by smaller capitalists. He denied that if the loan were taken by the United States' Bank, at five per cent, the United States would, in fact, get it at four per cent, because they owned one-fifth of the profits of the bank; because the whole would not be a funded debt, and could not be traded as us if so much were actually added to the bank capital.

The question being taken on the amendment, it was negatived without a count.

Mr. Cambreleg then rose, and stating that it was not to be expected, that an exchange of stock could be effected, so as to place in the treasury any sum equal to the stock to be exchanged, and to provide for any deficiency, he moved

to substitute twenty millions for sixteen millions, in the second section of the bill.

The amendment was negatived.

The next day, other amendments were offered by Messrs. Forsyth and Verplanck, which were rejected without debate, and the bill was ordered to a third reading.

On the 14th of February, the bill, having passed the house, was sent into the senate, and after two readings, was referred to the committee on finance, a majority of which consisted of senators opposed to the administration, where it was kept until three days before the adjournment of congress, when Gen. Smith, the chairman of the committee, reported it without amendment, but too late, for the senate to act upon it. In this manner the bill was lost, and the government prevented from saving nearly half a million of dollars.

Among the appropriations made for the relief of individuals, was one for the relief of the sufferers by a destructive fire at Alexandria, on the 18th of January. This appropriation was opposed, on the ground, that congress could not constitutionally appropriate the public funds except for public purposes, and that this was an appropriation for local objects, and not justified by any argument of a general nature.

On the other side, it was said,

that the cities in the district of Columbia, were under the peculiar care of congress. Reference was also made to the sums appropriated by congress, for the relief of the sufferers at Caracas, by the earthquake of 1812; for the refugees of St. Domingo; for the starving Florida Indians last year; and for the sufferers at New Madrid, on the Mississippi.

The sympathies of congress were, however, too highly excited by the sufferings of a population, immediately under its superintendence, and having no other legislature to appeal to for relief, under a severe and temporary calamity, to need any precedents of this description, to justify the exercise of a power so clearly constitutionally, and after augmenting the appropriation from \$10,000, the sum first proposed, to \$20,000; the bill was passed by a vote of 109 to 67, and sent in to the senate for concurrence.

In that body, the vote on the final passage, stood 27 affirmative and 17 negative.

Early in the session, Mr. R. M. Johnson reported to the senate, a bill, increasing the compensation of the postmaster general, from \$1000 to \$6000.

When this bill was under consideration, on the 15th of January, Mr. Randolph objected to its passage, in a judicious and argumentative speech, the more remarka-

ble from its being the only speech from that gentleman during the session. After disclaiming any personal feelings towards the incumbent, he went on to say, that he thought the present salary a large one, and that the circumstances of the country, and the distress prevailing, especially in his own state, admonished the government to economy.

Mr. Johnson thought, that the duties of the postmaster general were as important as those of any of the departments, and, that the salary should be as large.

After some further discussion of a similar character, the bill increasing the compensation to \$6000, passed, 35 ayes, 10 nays. The house subsequently passed the same bill, almost without opposition.

On the 14th of February, the bill making appropriations for the support of the government for 1827, was taken up.

The various items in this bill passed without opposition, except the appropriation of \$9000 for an outfit for a minister to Taenbaya. This appropriation was objected to, on the ground, that as Mr. Poin-

sett was near the place where the congress was to meet, a full appropriation was unnecessary. This item involving in some measure the policy of the mission itself, was discussed with much spirit, and was finally rejected by a vote of 119 to 45.

A motion was then made to fill the blank with \$4500, for half an outfit, which was carried 93 ayes and 48 nocs. Mr. Forsyth moved to amend the bill, so as to require the outfit to be paid out of last year's appropriation, but the motion was opposed by Messrs. Dwight and McDuffee, and was negatived. This item was afterwards struck out in the senate, on motion of Mr. Smith, of Maryland, ayes 29, and the bill was referred to the house for concurrence in that, and an amendment appropriating \$800 for an additional clerk in the state department, and several minor amendments, which were all negatived in the house, except the half outfit, in which the house concurred: and the senate having receded from the other amendments, the bill was passed.

By this bill the following appropriations were made, viz:—

For the expenses of the legislative department of the government, including salaries of vice president, and of librarian to congress,	\$435,350
Do. of executive department, including the expenses of all the departments at Washington, and of all the territorial governments.	605,825 62

Do. of the judicial department.	245,911 42
For diplomatic intercourse,	205,000
For light houses, beacons, &c.	165,150
For pensions,	2,050
For miscellaneous expenses.	59,000

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The military appropriation bill was first taken up in the house on the 16th of February.

On the item for the continuation of the Cumberland road, some debate ensued. Mr. Cook moved to fill the blank with \$170,000, and observed that the policy of the govern-

ment through which it passed, would not be sufficient to meet its expenses for the next half century.

Mr. Beecher confessed the fact, but contended that this road was urged, on the great ground of internal improvement.

Mr. Bassett objected to the

proceed gradually, so that the road should be completed to the public lands before those lands were sold. Mr. Ingham inquired, whether that appropriation was to complete the road any farther than had been authorized by law; and was answered in the negative.

Mr. Forsyth inquired, whether this appropriation was intended to render further legislation unnecessary, and was also answered in the negative. Mr. Woods stated, that forty miles of the road between Wheeling and Zanesville, were completed, and would be ready for use the ensuing spring.

The appropriation asked would be sufficient to complete the road to Zanesville.

Mr. McCoy said, that an appropriation bill was an unfit place for this item; and observed that the 2 per cent. fund pledged by the states

and moved an amendment, striking out that part which applied part of the appropriation to the surveys between Zanesville and Missouri. After some discussion, this amendment was rejected without a division, and the appropriation adopted by the house, pages 107, says 55.

Mr. Vance then moved an appropriation of \$120,375 for the settlement of the claims of the Georgia militia, for services in 1792-3 and 4, according to an estimate of Constant Freeman.

Mr. Dwight inquired, whether there was any law authorizing the payment of that claim.

Mr. Webster observed, that he knew nothing against the claim, except that it had been under discussion ever since he had been a member of the house; but if it was to be allowed, it should be in a separate

bill, and not introduced at this late hour into an appropriation bill.

Mr. Vance said, that in offering the amendment, he had obeyed an order of the military committee, and that the sum moved, was the amount allowed by the government's own agent without interest.

It being late, the house then adjourned to the next day; and after the preliminary hour allotted to resolutions had been consumed in the discussion of Mr. Saunders' motion, relative to the publication of the laws, the debate on this amendment was resumed.

Mr. Clarke, without expressing any opinion on the claim, contended that it was unprecedented, to insert such claims in an appropriation bill. Besides, this claim had been so often reported against by committees, the attorney general, and the secretary of war, that he doubted its propriety.

Mr. Thompson said, that the only adverse report from an attorney general, was from General Lincoln, who had expressed but an imperfect recollection of the principal fact in controversy.

Mr. Wright, of Ohio, vindicated the justice of the claim: he thought that the militia had been employed by the United States, and that the claim was not included in the compact of 1802.

Mr. Burgess took the same view of the subject: denied the right

of the United States to negotiate away the claims of individual citizens; and concluded by suggesting that the recent collisions between Georgia and the United States, should induce the government to show to the people of that state that it was not disposed to oppose or delay the payment of their just claims.

Mr. McCoy opposed the appropriation, and denied that General Washington had ever admitted the justice of the claim; but on the contrary, objected to it, because the governor of Georgia had transcended his authority.

The real origin of this claim, although it does not appear to have been so stated in the debate, was in the following circumstances: during the existence of the dispute between Georgia and the United States, concerning the territory now composing the states of Alabama and Mississippi, the Creeks were almost in a state of open hostility with the citizens of Georgia, partly owing to their encroachments on the Indian hunting lands, and partly to the instigations of the Spanish authorities in Florida. The old congress so strongly disapproved of the conduct of Georgia in that business, that notwithstanding the application of the state authorities, it declined furnishing any aid against the Creeks, on the ground that congress was not convinced of the justice of the cause, and that it

would not make the union a party to a way of which congress should not have the sole control.

This state of affairs continued, until the federal constitution vested the exclusive control of Indian affairs in the general government. The subject was then taken up by president Washington; and by his direction, a treaty was made at New-York with the Creek nation, defining the boundaries of their country, and adjusting their relations with the white. Under the pretence that this treaty was not so favourable to Georgia, as a treaty made at Galphington, in 1785, by the local authorities of that state, in defiance of the congress and congress; the legislature undertook to censure the treaty of New-York, and a portion of her citizens assembled in arms; and having entered the Creek territory, provoked a war with that nation, which continued until a second treaty, confirming the treaty of New-York, was concluded at Cokerline, in 1796.

It was for the services in this war, all claims for which were understood to have been settled and relinquished by the agreement of 1802, that this claim was set up; and it had always been rejected, until the present session. Now, however, it was sanctioned by a vote of 102 to 55.

The appropriation for contingencies was reduced from \$15,000

to \$10,000; and the allowance of double rations was confined to officers commanding garrisons, and distinct military posts.

The bill was then postponed until the 20th February, when a discussion commenced on a motion of Mr. Rives, to strike out an appropriation of \$30,000 for surveys and examinations, under the act of April 30th 1824. Mr. McDuffie afterwards moved an amendment, so as to restrict the appropriation to surveys, already commenced, and to a road to New Orleans, and two canals, which he specified. This amendment being rejected by a vote of 19 to 26, the motion of Mr. Rives was also negatived 101 to 67. The bill was then passed, and sent to the senate for concurrence.

In that body, upon motion of Mr. Harrison, the clause restricting the allowance of double rations was stricken out, by a vote of 22 to 19. A motion was also made to strike out the appropriation for the claim of the Georgia militia, but it was negatived 22 to 15. Mr. Chandler also moved to strike out the appropriation for the contractors of the Cumberland road, which was lost, by a vote of 19 to 27. On the motion, to strike out the appropriation for surveys, the senate divided, 26 yeas, 19 yeas. The bill was then sent to the house for concurrence in the amendments. These were all agreed to, except the amendment concerning



the allowance of double rations. At a vote of 88 to 84. The bill then first the house rejected this amendment, 87 to 72; but the senate having determined to adhere to it, by a vote of 28 to 15, the house receded from its disagreement, by a

passed into a law.  
By this bill, the following appropriations were made for the military service of 1827, viz:—

For pay of the army, and subsistence of officers,	\$990,363 75
For subsistence and forage,	295,028
Recruiting service,	39,900
Purchasing departments, and for wobbens bought in advance for 1828,	284,625
Medical department,	30,500
Quarter-master general's department, and for supplies to West Point Academy,	354,260 84
Ordnance service,	65,000
Contingencies,	10,000
Armories and arsenals,	401,400
Expenses of board of officers to prepare system of tactics,	1,680
Claims of Georgia militia in 1792, 1773, and 1791,	\$129,375 66
Arrearages,	20,000
Expenses of an expedition of Georgia militia to suppress aggressions of Florida Indians,	39,260
Rations to Florida Indians,	22,068 37
Running line of lands of do.,	330 56
To carry into effect a treaty with the Choctaws,	25,666 60
Cumberland road, deepening harbour of Presque Isle, road to Little Rock, improving navigation of Ohio and Mississippi, and for new surveys,	249,891 77

Besides the appropriations contained in this bill, there was appropriated for barracks, store houses, and hospitals, the sum of 55,352 51

The appropriations for the Indian department, which is a branch of the war department, were as follows:

For Indian agents,	46,100
For presents to Indians,	15,000
Contingent expenses,	95,000
Rations to Florida Indians,	7,947 59
To defray the expense of holding a treaty with the Cherokees,	10,000

## CHAPTER III.

*Colonial regulations of Great Britain—Condition of States after the Revolution—Acts of first Congress—Sheffield's Pamphlet—Convention of 1815—Acts of Congress of 1818—Act of Parliament of 1818—Negotiation—Law of U. S. of 1820—British act of 1822—Proclamation of President in 1822—Negotiation continued—Act of U. S. of 1823—Order in Council of 1823—Acts of Parliament of 1825—Principles of the two parties—British Colonial ports shut—Negotiation—Proceedings in Senate—In House—Conclusion of Session—Proclamation of President—Ports of U. S. closed.*

THE controversy between the United States and Great Britain, relative to the trade with the American colonies of the latter power, was alluded to in the last Register, and a hasty sketch was given of its origin. By the course of events, that dispute resulted in the prohibition of all intercourse between them and this country. This termination of the negotiation imparts a deeper interest to this subject, than any connected with our foreign history which transpired during the last year, and entitles it to a prominent place in the present volume. As the stand taken by the American government is intimately connected with the system of policy adopted by those who framed the federal constitution; and as that policy had in view the emancipation of the

trade of the United States from the burdens and restrictions which grew out of the colonial systems of the European powers: it will be necessary to bear in mind, the condition of this country immediately after its separation from Great Britain, and the relative position of the two powers at that important era.

The operation of the navigation acts, and colonial regulations of the British government, previous to the revolution, upon the provinces, had proved extremely injurious to their permanent interests. Their navigating and manufacturing interests had been designedly repressed, in order to promote those of the mother country.

The revolutionary war had occasioned a still greater depression of these important interests. Peace

found them almost extinct, and with a national government just on the point of dissolution, and unable to protect them against the hostile legislation of foreign powers, they were compelled to enter into competition with the skill and capital of Europe. The shipping interest of the country, experienced the first effects of this state of things.—Thirteen governments, actuated by jealous feelings, and, clashing in policy, were unable to afford it adequate protection against the discriminating duties and colonial regulations of European nations.

Great Britain especially, the nation with which we had the most intercourse, and whose productions were best adapted to the American market, availed herself of this imbecility of the federal government, and sought to monopolize, not only the supply of our wants, but the carrying trade between her ports and those of the United States by commercial regulations, adapted to the circumstances of that period. The colonies, which she still retained in the West Indies, and on the North American continent, gave her great advantages in any commercial contest, which might be caused by her attempt to monopolize the carrying trade; and the distracted condition of the states, under the old articles of confederation, prevented any effectual resistance to this selfish policy.

At one time, indeed, it was hoped.

that our commercial intercourse would be placed upon a more liberal footing. William Pitt, whose early commercial views were of a more enlarged character, than those usually entertained by the premiers of England, and who then thought it necessary to attract American trade into British channels, introduced into parliament, a bill for the purpose of placing the intercourse between the United States and Great Britain, and her American colonies, upon terms of exact reciprocity. Unfortunately, this bill did not pass; and it is to be regretted, that the means of its defeat were furnished by a citizen of the United States, once high in the public favour. Silas Deane, who was at that time in England, made known to John Lord Sheffield, a member of the board of trade, the distracted condition of the states: the imbecility of the federal government; its inability to adopt measures counteracting any commercial policy which the British government should pursue towards her late provinces; their almost total want of capital; the adaptation of British manufactures to the American market; and the great advantages which might be gained in the carrying trade, by shutting the colonial ports to American vessels. The goods destined for the American market could then be transported in British vessels, which, after landing their cargoes,

would return homewards by a circuitous route through the West Indies, carrying supplies to the islands, and bringing the produce of the West India colonies to the ports of the mother country. By thus combining three voyages in one, an advantage would be gained by the British merchant, which could not be easily counterbalanced.

These views, illustrated by a vast number of details furnished by Mr. Deane, were promulgated by Lord Sheffield, in a pamphlet, which produced a decisive effect upon the public mind in England. The hope of a temporary gain prevailed. Mr. Pitt's law was relinquished; and, instead of settling the terms of intercourse with the United States upon a reciprocal basis, the colonial ports were closed; an order in council issued, (which, in 1788, became a permanent law) regulating the trade; and all advances towards a commercial treaty scornfully repelled. In this manner the British cabinet sought to secure an undue share of the carrying trade between the two countries. The views inculcated by Lord Sheffield, occasionally modified by circumstances, were adopted as leading maxims of its policy towards the United States, and continue at this day to govern the councils of England. At first they were completely successful. The trade fell into the hands of the foreign merchants, and the lau-

guishing state of American commerce, and the acknowledged inability on the part of the general government, to afford adequate protection to the great interests of the country, gave an impulse to the public mind, which resulted in the adoption of the federal constitution.

Upon the assembling of the first congress, the leading members in that body, after much consultation, and in accordance with the views of Washington, and of Hamilton and Jefferson, the governing minds of his cabinet, agreed upon a system of policy, counteractive of the hostile commercial policy of European nations, and more especially of Great Britain.

Discriminating tonnage duties were imposed on foreign shipping; and Mr. Madison, then a representative from Virginia, strenuously urged the propriety of making a distinction disadvantageous to those powers with whom we had no commercial treaty. Impost duties were laid on importations, for the purposes of revenue; and on such articles as were then manufactured in the United States, heavier duties were laid, in order to encourage domestic manufactures.

These retaliatory measures induced the British cabinet to descend from its lofty stand, and to commence a negotiation with the government of the United States, which resulted in the treaty of 1794.

In this treaty, as at first agreed upon by the negotiators, there was an article, prescribing the terms of our intercourse with the West Indies ; but as it was very unfavourable to the shipping of the United States, and degrading to our character as a nation, the senate rejected it ; and the treaty was ratified, with the exception of that article.

The terms of this article strikingly illustrate the extravagant and peculiar spirit of the British cabinet, respecting the West India trade. The United States were *permitted* to trade with the British islands in vessels not exceeding 70 tons ; and, in consideration of this *bribe*, they agreed not to export from the United States any molasses, sugar, coffee, cocoa, and cotton, to any part of the world ; and British vessels of any burthen were permitted to participate in the same intercourse.

The traffic between the United States and the British colonies remained in this state, unregulated by treaty, and only occasionally opened by orders in council, and governors' proclamations, (when the pressure of war, or an apprehended scarcity, compelled them to relax the strictness of the navigation acts,) until the late war between the two countries put an end to all commercial intercourse, between them.

Upon the return of peace, the

commercial relations of the United States with Great Britain, were renewed. A convention was formed July 3d, 1815, establishing the terms of intercourse between the United States and Great Britain ; but the British cabinet declined making any arrangement relating to the colonial trade, which, it was asserted, was of a peculiar character.

By this convention, the trade with the European possessions of Great Britain was established upon a reciprocal basis, so far as the navigating interest was concerned. The staple productions of the United States were, indeed, placed upon a worse footing than the British staples, by onerous duties imposed by that government, in some instances amounting to a prohibition ; but this came under another head of the reciprocal system, not yet fully matured, and did not affect the policy originally adopted, to secure a portion of the carrying trade.

The convention secured to the productions of the United States, and of Great Britain, admission into their respective ports, upon as favourable terms as the productions of other countries ; and generally provided, that no prohibitions nor restrictions should be applied to the commerce between them, which did not generally extend to the commerce of other nations. The shipping of the two

countries was placed upon an equal footing in the ports of the United States, and in British ports in Europe; and the trade with the colonies was expressly declared, not to be affected by any of the provisions of the convention.

In acceding to this treaty, the British government substantially accepted a proposal made on the part of the United States, to all nations, by an act of congress, passed March 3d, 1815, conditionally repealing our discriminating duties. At the same time, it adhered to its system of excluding American vessels from the colonial trade; and persisted in monopolizing, in British shipping, the transportation of all those productions of the West-Indies and of the United States, which, in the ordinary course of things, were so freely exchanged to supply the natural or artificial wants of their respective inhabitants.

The direct trade between the United States and Great Britain, was so interwoven with that between the United States and the colonies, that the end which the American government had in view would have been defeated; if, while the European part of the intercourse was placed upon a reciprocal basis, the colonial trade had been monopolized by British navigators. The reciprocity aimed at would have been relinquished, because the advantages exclu-

sively secured to British vessels, by a combination of voyages, in the course of which supplies could be carried to the West Indies, would not be less real and operative in the trade with Europe, than if they were directly given by bounties or discriminating duties.

The practical operation of this state of things was so severely felt when the convention took effect, that after various efforts to induce the British government to adjust the collision of interests by amicable negotiation, the government of the United States came to a determination, to put an end to an intercourse in which they were not permitted to share. Before this determination, four fifths of the trade with all the British colonial possessions was monopolized by British shipping, and even the small quantity of American tonnage then engaged in it, was daily diminishing.

An act was accordingly introduced into congress, which, on the 15th April, 1818, became a law, closing the ports of the United States against British vessels coming from colonial ports, which, by the ordinary laws of navigation, were shut against American shipping, and compelling British vessels clearing from our ports, to give bonds to land their cargoes elsewhere than in a colony closed against American vessels.

In order to counteract this law,

the British government, upon hearing that such a retaliating measure was contemplated, with great promptitude, authorized, by an act of Parliament, passed 8th May, 1818, the opening of the ports of Halifax and St. Johns to the vessels of friendly powers, for the importation of certain enumerated articles adapted to the West-India market. By making these ports places of deposit, it expected to secure to British shipping the greater share of the carrying trade, by the indirect route to the West-Indies; and with that view, a participation in the intercourse between those ports and the United States was relinquished to the American navigators. Within three weeks after its passage, an order of council, *revocable at pleasure*, was issued, carrying into effect the provisions of the act.

This order in council, revocable at pleasure, was not, however, regarded by the government of the United States as modifying the ordinary navigation acts, and their ports continued to be shut against British vessels from those ports, although they were thus temporarily opened to American shipping.

The British government, finding its object unattainable in this manner, was compelled, by the distresses of the West India islands, to make some advances, for the purpose of arranging the terms of intercourse between them and the

United States; and on the 6th of the ensuing October, a proposition was made, to allow the importation and exportation of certain enumerated articles, in American vessels. This article, however, extended only to such West India ports as should be open to the vessels of other foreign nations; and such distinctions were established, respecting the kind of productions to be admitted into the different colonies, as to secure to British shipping a decided advantage in the trade. The proposition gave to the vessels of the United States no privileges in the ports of New Brunswick and Nova Scotia, which they did not already enjoy, and admitted the British vessels to a participation in that trade, from which they were then excluded, by the existing navigation laws of the two countries. It diminished their privileges in the Bermuda trade, as established by act of parliament, by excluding from the enumerated articles, all live stock, which they were then permitted to import; although it added to the exportable articles, molasses, cocoa nuts, ginger, and pimenta, all productions of the West Indies. As these regulations were obviously intended to secure to the British islands supplies of indispensable necessity, which could not be easily obtained elsewhere; and aimed at making Bermuda, St. Johns, and Halifax, places of deposit, for the supply of the West

In 'ves, with the view of monopo-  
lizing, in British vessels, the longer  
voyage in the indirect route; the  
American government refused to  
accede to them, and proposed as  
a counter project, that the inter-  
course should be established upon  
the following terms:—1st. That  
the list of admissible articles should  
be the same for the West Indies,  
Bermuda, and for the North Ameri-  
can provinces. 2dly. That the  
duties should be equalized, and  
particularly, that no higher duties  
should be charged upon the pro-  
ductions of the United States, than  
upon similar articles, when im-  
ported from any other country or  
place.

This proposal was rejected, on  
the alleged ground, that the Bri-  
tish government must continue to  
protect the productions of her  
northern colonies against foreign  
competition. It was, however,  
easy to be seen, that under that  
pretence, the productions of the  
United States might be forced, by  
colonial regulations, to obtain ad-  
mission into the West Indies,  
through the ports of the northern  
colonies, and under the character  
of colonial productions. A high  
discriminating duty in their favour,  
would make it the interest of the  
American merchant to send his  
cargo to Halifax, or Bermuda, to  
be there re-shipped to the West  
Indies in British bottoms.

The rejection of this proposition,

consequently, left the United States  
no option, but to relinquish the  
trade to British shipping, or to meet  
the British navigation system by  
similar restrictions. They chose  
the latter, and on the 15th of May,  
1820, a law was passed prohibiting  
all intercourse in British vessels,  
with any colony, and also, the im-  
portation of all colonial productions,  
except produced in the colony it-  
self from which they were imported.  
This closed the intercourse between  
the United States and the West  
Indies, and shut the produce of the  
British West Indies from the  
American market.

The operation of these retalia-  
tory measures upon the British  
islands was severely felt, both by  
the inhabitants of the colonies,  
and by the British capitalist,  
whose property was invested in  
plantations, or in the West India  
trade. The vast amount of British  
capital invested there, estimated at  
70,000,000 sterling, recommended  
the condition to which the islands  
were reduced by our navigation  
system, to the attention of the mi-  
nistry, and after permitting them  
to endure its effects for two years,  
an act was introduced into parlia-  
ment for their relief.

By this act, passed June 24th,  
1822, certain enumerated articles  
were authorized to be imported  
into certain colonial ports, in ves-  
sels of the country where those  
articles were produced, and the



exportation of colonial produce and *British manufactures* was also permitted in foreign vessels, bonds being given, that such cargoes be landed in the country to which such vessel belonged.

On bread stuffs, live stock, and lumber, articles of the first necessity to the West Indies, when imported from any foreign country, an average duty of ten per cent was imposed, for the purpose of encouraging their importation from the British provinces in North America. To British vessels, the same privileges were given as to foreign, and they were permitted, in addition, to trade from the islands with any of the British possessions in America or Europe.

This provision was intended, to give them the advantages to be derived from the circuitous voyage.

After thus prescribing the terms of intercourse, the act went on to authorize the king, by order in council, to prohibit this trade to the vessels of all countries, where the *privileges granted by that act* to foreign shipping, were not allowed to British vessels trading with those countries.

This threat of prohibition, made it necessary for the American government to consider attentively the provisions of the British act; so that while on one hand it granted to British vessels trading with the colonies, privileges similar to those allowed to its

own vessels, on the other, it might not depart from that system of reciprocity, to which it had adhered from its first organization.

According to the navigation laws of the two countries, after the passage of the above mentioned act, the intercourse between the United States and the British colonies stood upon the following basis, viz :

American vessels might trade with certain enumerated ports in the West Indies, and were allowed to import directly from the United States, certain articles, produced there of indispensable necessity to the British islands. Upon these cargoes, however, duties averaging ten per cent. were laid by act of parliament, to which similar cargoes, from the North American colonies, were not liable; and heavy discriminating duties were imposed, in addition, by various colonial legislatures, so as to give a decided advantage to British vessels, and to encourage the exportation of the produce of the United States, through Canada, Nova Scotia, and Bermuda. Besides this advantage to the shipping of Great Britain, there was a still greater, given by the regulations concerning the return cargoes. American vessels, upon giving bonds to land their cargoes in the United States, were allowed to load with colonial produce or British manufactures, paying an ad valorem export duty of 4 or 5 per cent. British vessels.

in addition to this, might take the same cargoes to any other possessions of Great Britain, in America or Europe.

It was clear, that by this change in its policy, the British government aimed at three objects—to encourage the exportation of the West India supplies from her northern colonies, whether produced there or obtained from the United States; to sustain her shipping in the direct trade between the United States and Europe, by securing to them, exclusively, the advantages of the combination of voyages; and to engross the colonial trade, by burdening American vessels with discriminating duties, imposed by the local legislatures.

The government of the United States perceived this, and addressed itself to provide counteractive measures to protect its shipping, and to preserve the reciprocity in trade, which formed so striking a feature in its commercial policy.

The proclamation issued by Mr. Monroe, May 6th, 1822, opening the ports of the United States to British vessels from the colonies, prohibited the importation from the West Indies of any articles other than the produce or manufactures of the West Indies; and a similar restriction was extended to the importations from the North American colonies. The discriminating duty of one dollar per ton, continued to be levied on British vessels

from the colonies, according to the existing revenue laws.

These provisions, however, did not render the terms of intercourse exactly reciprocal. To effect that, the government of the United States should have permitted British vessels to enter only certain specified ports; to bring only certain enumerated articles, excluding some of the chief staple productions of the islands; and on the enumerated articles, a duty of ten per cent. should have been laid, in addition to the ordinary duty on the same articles imported from other places. The return cargo should have been burthened by some state law, with an export duty of four or five per cent.; and the British vessel should have been required to land the cargo at the port for which she should clear out. This would have placed the navigation laws of the respective countries, regulating the colonial trade, on a basis of reciprocity. But such provisions would have been inconsistent with the American commercial system; and were, moreover, beyond the powers vested in the executive of the United States. Congress, accordingly, took the subject into its consideration; and after much deliberation, passed the act of March 1st, 1823, limiting the permission to British vessels, to clear out for the colonies, to such as should have come directly from some of the enu-

merated ports. This law confined the British shipping to the direct trade, as that of the United States had been by the British navigation acts; and it offered to discard all discriminating duties, if Great Britain would place the productions of the United States upon the same footing as similar productions from *elsewhere*.

The intercourse was thus made as nearly reciprocal as the nature of the case would allow. The vessels of both parties were confined to the direct trade, and to meet the average import duty of ten per cent. in favour of the productions of British North America, and the export duty of four or five per cent., a discriminating tonnage duty of ninety-four cents on British vessels was retained.

The British minister at Washington immediately complained of these measures, to preserve American shipping from the operation of the navigation and colonial system of his government; and he was distinctly assured, that the United States were ready, as they always had been, to adjust the intercourse with the West Indies upon terms of reciprocity, but that they should continue to meet restriction by restriction.

An order by the king in council was then issued, July, 1823, imposing a tonnage duty of 4s. 3d. on American vessels trading with the colonies, for the purpose of coun-

tervailing the American discriminating tonnage duty.

This left the British import and export duties without any countervailing measure on the part of the United States; but as our exports were absolutely necessary to the existence of the West India colonies, all these impositions were finally borne by their inhabitants; and Great Britain became convinced, that all the expenses of this commercial warfare were paid by her own subjects. This, in connexion with the fact, that notwithstanding the burdens imposed upon that trade, the greatest portion of it was carried on in American shipping, determined the British government to adopt a new policy respecting it. This determination was evinced by the act of parliament of July 5th, 1825.

Previous, however, to the passage of that act, a negotiation had been opened at London, between the two governments, for the purpose of settling this long dispute, in a manner satisfactory to both parties.

In this negotiation, their respective views were fully developed. The United States were willing, to remove all discriminating duties upon the vessels of both parties trading between the United States and the colonies, upon condition that no duties should be levied upon the importations into the colonies from the United States, which

## COLONIAL CONTROVERSY.

were not levied upon the same articles from other places, including the possessions of Great Britain; and reciprocally, that no higher duties should be imposed, upon the importations from the British colonies into the United States, than upon similar articles from other places. In all other respects, the navigation acts of both parties were to remain as before. The British commissioners (Messrs. Huskisson and Stratford Canning) were willing to accede to the abolition of the discriminating duties; but they decidedly objected to that part of the proposition, which bound them to lay no discriminating duty in favour of importations from their North American colonies.

That is, they were willing to agree to a convention, which should place the intercourse upon the footing established by their own law of June 21th, 1822. They defended their objection to the other part of the proposition, on the ground that the trade between their different colonies was part of the coasting trade, and that it was unprecedented, to require a foreign government to relinquish the power of protecting its own shipping. In making this objection, the British commissioners entirely overlooked the fact, that their own government had invariably asserted, that the colonies were, for all commercial purposes, distinct and separate countries.

The government of the United States had always been willing to consider the possessions of Great Britain in America and Europe as one empire, and to agree to a convention, placing the intercourse between them and the United States on a strictly reciprocal basis, i. e. all articles, the importation of which were not prohibited by the revenue laws of the respective countries, should be admitted into all the ports of each of the parties, upon the same terms on which they were admitted into any port. This did not, however, suit the views of the British cabinet. The breadstuffs, for instance, which were necessary to the West Indies, could not be admitted into her European ports without an alteration of her corn laws.

It therefore demanded, that for some purposes, the colonies should be considered as integral parts of the empire: while for others they should be regarded as distinct and separate. When the government of the United States requested that their vessels should trade with the colonies upon the same terms as with Great Britain, the request was met with the assertion, that they were distinct possessions: and, according to uniform usage, ought not to be comprehended in any convention regulating the commerce between the two countries: but when the United States require that the productions of these dis-

inct and separate possessions, should not be encouraged at the expense of the productions of their own soil, they are told; that the trade between them is a coasting trade, between different parts of the same empire, and must not be burdened with so heavy duties as are laid upon the foreign trade.

By thus varying the character of the colonies, to suit the purposes of the argument, the British government hoped to succeed in establishing, without discriminating duties, an intercourse between all the ports of the United States, and certain enumerated colonial ports, for the purpose of supplying the West India islands, with such articles as must be brought from the United States. The import duty, then existing in favour of similar importations from the North American colonies, would operate as a bounty upon the indirect route, and would pay the expense of the transportation from the United States, and of the reshipment from Canada and Nova Scotia. This would secure to British vessels an advantage, which might enable them to monopolize that trade, and thus prevent the growth of a marine, which already excited the uneasiness of the self-styled mistress of the ocean.

The government of the United States, which then was not embarrassed by any domestic opposition, refused to accede to these views of

Great Britain, and after endeavouring to fix upon some method, by which the trade with the British colonies might be made exactly reciprocal, the negotiation was suspended in August, 1824, with an express understanding, that it was to be resumed at an early period.

The present administration of the federal government found the question in this state, upon its organization in March, 1825. Mr. Rush, who had conducted the negotiation on the part of the United States, was recalled, pursuant to his own request, and Mr. Rufus King, who had taken a leading part in the course of policy adopted by this country in relation to this trade, was appointed his successor.

On his passage to England, Mr. King was attacked by a disease, occasioned by the voyage, which prevented him from renewing the negotiation, and on the 27th June and 5th July, 1825, within four months after the inauguration of the present executive, the British government passed several acts for the regulation of the colonial trade, by which a new policy was adopted, in relation to its commerce in this hemisphere.

The commercial policy of Great Britain, as developed by her celebrated navigation acts, is too well known to call for any particular observations. It aimed at maintaining a great commercial marine, by a monopoly of the carrying

trade between England and all parts of the world. After enjoying the effects of these monopolizing acts for more than a century, and acquiring a disproportionate share of the tonnage of Europe, she found other nations awakening to a just perception of their interests, and that her restrictive policy began to provoke retaliation. It was from the United States, that this policy met with the first serious opposition. Following up the great principles of the declaration of independence, the federal government, upon its organization, adopted a uniform system of commercial policy, by which, according to the confession of Mr. Huskisson, in the British parliament, "a heavy blow was aimed at the navigation of England."

As the marines of other countries increased in importance, the statesmen of England perceived, that her ancient policy could not prevent other governments from protecting their own shipping, and their navigation system was modified, with the view of hindering any one other nation from engrossing too large a portion of the navigation of the world. They sought to check, by their own mercantile regulations, the growth of any maritime power, which might by her single strength endanger the commercial supremacy of Great Britain, and question her title to the sovereignty of the seas.

"It is the broad principle," said Mr. Huskisson, in his speech in the house of commons, on the 12th of May, 1826, "upon which the navigation system of this country was founded, and it is obvious, that the motives for adopting that system were; first, that such portion of the carrying trade of foreign countries, as does not devolve to British shipping, should be divided as equally as possible amongst other maritime states, and not engrossed by any one of them in particular; and, secondly, that countries entertaining relations of commerce with this country, and not possessing shipping of their own, should export their produce to England in British ships only, instead of employing the vessels of any third power."

The rapid and progressive increase of the shipping of the United States, could not but excite the jealous alarm of a government, actuated by such principles. The total amount of their tonnage of every description, at the organization of the federal government, was 201,562 tons. At the close of the late war with Great Britain, it amounted to 1,368,127 tons; and since that period there had been an annual increase, until it amounted, in 1826, to 1,534,190 tons. While the shipping interest of this country exhibited such undeniable proofs of its strength and prosperity, that of Great Britain was on the decline. The tonnage of the

vessels registered in her American and European possessions, amounted in 1815, to 2,681,276 tons. The next year it increased to 2,783,943 tons, and from that period there has been a gradual, though small annual diminution, until the year 1825, when it amounted only to 2,559,587 tons.

In this progressive diminution of the inequality subsisting between the marine of the two countries, may be found the explanation of the hostile commercial policy, which has always been manifested by Great Britain towards the United States, and especially of the departure from her navigation system by the acts of 1825.

The British government found that our tonnage was fast advancing to an equality with her own; that in the violation of one of her fundamental principles, "it was engrossing too large a portion of the navigation of the world," and it became necessary to interpose some obstacles to its too rapid increase, although at her own expense.

The changes which had taken place in the condition of the American continent, afforded an opportunity to try a new experiment for the supply of the West India islands, which, if successful, would secure to British vessels the monopoly of the colonial trade, undisturbed by the competition of the United States.

By the emancipation of the

South American powers from a state of colonial vassalage, a new and extensive field was thrown open to the enterprise and commerce of civilized nations.

The government of the United States, unrestrained by any considerations of respect for these colonial relations, which so strongly address themselves to European prejudices and interests, hastened to recognise their independence, as soon as they had manifested their capability of maintaining it; and entered into relations of commerce with them, upon principles of reciprocity. This circumstance determined the British cabinet, in its commercial views upon this hemisphere. After some ineffectual efforts to induce Spain to acknowledge the independence of her former colonies, she followed the example of the United States, and entered into commercial relations with them in the spring of 1825.

The principle which she advanced in the diplomatic correspondence, relative to the recognition by Spain of their independence, is highly characteristic of her systematic policy. The British cabinet had no objection to an agreement securing for a limited time, a preference to the navigation of Spain, in the ports of the new republics; and when the existing state of Spanish capital and navigation is taken into view, it is not easy to re-

sist the conclusion, that the British government was fully convinced that a preference by treaty to a trade from the ports of Spain, would be a stipulation in favour of English subjects. At all events, it would have been disadvantageous to the navigation of the United States, and would have promoted the success of the other part of the British system, by preventing any transatlantic rival from engrossing too great a share of the American trade.

Her efforts to bring Spain into these views, proved unsuccessful; and her statesmen were consequently compelled to adopt different measures. These new measures were promulgated in the acts of 27th of June, and the 5th of July, 1825.

By these laws, the ports of Kingston, Bridgetown, Halifax, Quebec and St. John's, were made free warehouse ports; and regulations were adopted for the repacking of the goods imported, with the view of making these ports places of depot for the supply of the South American market with British manufactures, as well as for the supply of the West Indies with the produce of the United States.

The following alterations were then made in the navigation and colonial system of Great Britain. All articles from all parts of the world, (except Asia, beyond the Cape of

Good Hope) except salt provisions, munitions of war, books, whale oil, productions of the East and West Indies, were admitted into certain enumerated colonial ports, in vessels of the country where such articles were produced; and the exportation of the produce of the colonies was permitted in foreign vessels, direct to any country in Europe, Africa, or in the Mediterranean, to which the said vessel belonged. Permission was also given for the inland importation of all produce into Canada, and Nova Scotia, and New Brunswick, which might be lawfully imported by sea.

This participation in the colonial trade was, however, declared to be granted only on these conditions: viz.: to the vessels of such powers having colonies, as shall grant like privileges to British vessels trading with their colonies; and to the vessels of powers having no colonies, only upon condition that the vessels of Great Britain and her colonies, be placed in their ports upon the footing of the most favoured nation.

This unequal and invidious distinction in favour of the colonial powers, was obviously aimed at the navigation of the United States, and was adroitly adapted to the existing state of the commercial dispute between them and Great Britain. The colonial powers of Europe had no means of carrying on a trade with the British West



Indies ; they could not supply them with live stock, lumber, nor bread stuffs ; nor would the low prices of their produce justify a trade merely for the sake of the return cargo.

The new American states had neither colonies nor shipping, and the condition upon which they were admitted to a participation in a trade, that from the state of their marine, must be chiefly carried on in British vessels, was the extension to those vessels in their ports of the privileges of the most favoured nation.

The provisions of the act were inoperative upon European and upon American powers, with the exception of the United States. To this country, however, they had a direct reference, and seemed to have been framed for the express purpose of terminating the contest for the colonial trade in favour of England, and to carry into effect by her own legislation, the principles of her navigation system. If the government of the United States had accorded to her shipping from the colonies, the privileges of the most favoured nation in all their ports, it would have been conceding to Great Britain the whole question, so long the subject of controversy between them.

The advantages of the circuitous route, would have been exclusively enjoyed by British vessels. The indirect supply of the islands,

through Canada and New Brunswick, would have been encouraged, by discriminating duties, in favour of produce exported from those provinces ; and the greater share of the transportation of colonial supplies secured to British shipping. Besides, the distinction made between colonial powers and those without colonies ; or, in other words, between European and American nations, was degrading to the character, and detracting from the equality and independence of all the states in this hemisphere. To the conditions of these new navigation acts, the United States could not accede, without giving up the commercial policy deliberately adopted, and never departed from since the organization of their government. It was accordingly determined to resume the negotiation suspended in 1824, with the view of arranging the terms of this intercourse, by an agreement mutually satisfactory, instead of suffering it to depend upon retaliatory and hostile legislation, which experience had proved to be too apt to engender an unfriendly feeling, and an encroaching disposition.

With this view, the senate of the United States, in the first session of the nineteenth congress, declared it to be inexpedient to legislate on this subject.

This course was also rendered necessary, by the difficulty of properly understanding the meaning

## COLONIAL CONTROVERSY.

of the British acts, and the impossibility of obtaining any satisfactory explanation from the public officers of that power in this part of the world, as to the precise extent of privileges, to which the shipping of the United States would be entitled, of even whether the provisions of the act of July 5th, 1825, were to be applied to the vessels of the United States.

While the governor of Nova Scotia at first, construed it to extend to the intercourse with the United States, and declared the ports of that province to be shut against American vessels; the British minister at Washington declared, that he was unadvised of any such intention on the part of his government; and the order of the governor of Nova Scotia was revoked.

Mr. Canning construed the act to open to foreign vessels, whether American or European, the trade between the British colonies and European countries, other than the dominions of Great Britain. Lord Stowell, sitting in the high court of admiralty, decides directly the reverse, and declares the trade, to be confined to the vessels belonging to the country for which they shall clear out. The opinion of Mr. Canning was founded upon an ambiguous expression, in the preamble to the 4th section of the act of July 5th; by which foreign shipping were permitted to ex-

port goods to all foreign countries; that of Lord Stowell on the express provisions of the act of 27th June, to which that preamble alludes, and confining that permission to a direct trade to the country, to which the vessel belongs. In the midst of this obscurity, and with these ambiguities before them, the government of the United States addressed itself to the British government, for a correct understanding of its meaning, and with the view of settling the dispute, by an agreement upon terms of equality and reciprocity.

Regarding these new navigation acts, as a departure from the rigour of the colonial system; although they adhered to the spirit of maritime monopoly, it felt desirous of manifesting its disposition in favour of free trade, and offered to place the intercourse with the colonies upon the following basis: viz. to abolish all discriminating duties on both sides—to waive the demand that the produce of the United States should be admitted into the islands, upon the same terms as the produce of the North American colonies, excepting, however, from this stipulation, our produce descending the St. Lawrence and Sorrell; and finally, to insist on participating in all trade, between the British colonies and such foreign countries as British vessels are permitted to trade with. To prevent any objection to this proposi-

tion, on the score that it was not reciprocal, an offer was made to abolish all restrictions, and to permit the vessels of both parties to participate, upon equal terms, in all intercourse between their respective dominions and other countries, which was not prohibited by their laws.

These propositions so far acceded to the proposal of Great Britain, in 1821, to the administration of Mr. Monroe, as to leave but little doubt on the part of the American government, of an amicable adjustment of the whole controversy. While they agreed to the protection, by discriminating duties of the bona fide productions of the North American colonies; they guarded the shipping interest of the United States by stipulating, that this provision should not be extended, so as to comprehend the productions of the United States exported through Canada. The argument of the British government was thus fully met, and by refusing to agree to this limitation, it would show, that under the pretence of protecting domestic productions, it sought to encourage the transportation of the produce of the United States to the West Indies by the indirect route.

These instructions were given to Mr. Gallatin, June 19th, 1826. In the mean time, however, the English shipping interest had become clamorous, on account of the com-

petition of foreign shipping, against the new navigation acts; and the ministry were obliged to recede from the principles of these acts, so far as they applied to the United States, the country from whose commercial competition they had suffered the most.

The deep alarm which was manifested by the British government, at the entire failure of all its efforts, to counteract the effects of the reciprocal system of the United States upon this favourite interest, is well depicted in the speeches of Mr. Huskisson in the house of commons, just before the issuing of the order in council, closing the colonial ports against American shipping. All their measures had proved ineffectual. American vessels had been excluded from the colonial trade. This produced on our part, the discriminating tonnage duty, and finally our own ports were shut against British vessels coming from the colonies. The northern colonies were then thrown open, in order to secure the greater share of the transportation, by the indirect route. This caused a prohibition of the importation of any British colonial produce, except directly imported from the place of its growth. The colonial ports were then opened, to American vessels, but they were confined to the direct trade. Our ports were opened, to British vessels from the colonies,

and they also were confined to the direct trade. The duty in favour of produce imported from the northern colonies, was met by a continuance of the discriminating tonnage duty.

In all these different stages of the contest, the skill and economy of the American navigator had prevailed, and the British government were reluctantly compelled to confess their superiority, and to adopt other measures to secure the predominancy of its marine.

This determination was evinced by the order in council, of the 27th July, 1826, published immediately upon the arrival of Mr. Gallatin, and before he had presented his credentials, closing the colonial ports against vessels of the United States, unless the conditions of the act of July 5th, 1825, were complied

The British cabinet well knew, that the government of the United States had requested information concerning the extent of that act, and whether it was applicable to their trade with the colonies. It knew that the very expression of "the footing of the most favoured nation," was ambiguous; inasmuch as it might mean, the best footing upon which those nations were placed, that paid no equivalent; or the footing for which an equivalent was paid, paying the like equivalent. There were other difficulties in the way of complying with the

conditions of the act of parliament, which could be removed only by a free and mutual interchange of opinions; and Mr. Canning, the secretary of foreign affairs, had been informed by a despatch from Mr. Vaughan, dated the 22d of March, of that year, that the government of the United States were about to furnish instructions to their minister at London, to recommence the negotiation on that subject.

Under these circumstances, the peremptory manner in which this order was issued, evinced a desire on the part of the British government, to forestall any negotiation; and to exclude the United States from a trade, to which it was willing to admit the vessels of other nations, rather than to arrange the matter upon fair and equal terms. Besides, it was well known that congress, which was not then in session, and would not meet until after the time, when the colonial ports were declared to be shut, had the sole constitutional power to accede to the conditions of the act of parliament.

It was therefore requiring the government of the United States, to comply with what was virtually impossible; and the order could not be regarded, otherwise than as evincing the determination of Great Britain, to revert to her ancient system of monopoly and exclusion.

This order produced a correspondence between the two governments, which will be found among the public documents in this volume. In these letters the nature of the colonial trade is fully discussed, and the different views of the respective parties concerning it clearly developed.

Great Britain asserts, that to allow foreign vessels to participate in the colonial trade upon any terms, is a *boon*.

That that trade is peculiar to itself, and that it should be regulated solely by the laws of the party owning the colonies; and that a counteractive measure, prohibiting her vessels from clearing out, from the ports of the United States for British ports in any part of the world, is an injury, and a deviation from the spirit of the convention of 1815.

The United States admit the right of Great Britain to make regulations, opening, either in whole or in part, the colonial trade; but contend, that it is a right, which applies equally to the trade with her possessions in Europe; and that it is their right to determine, whether the terms proposed for the regulation of their intercourse with her colonies, as well as with her European possessions, are advantageous for them to accept. The ordinary principles upon which an exclusion from the colonial trade is justified, are not applica-

ble to an American state. They apply solely to European nations. Their object was, to appropriate the commerce and resources of this continent to their own use; and the exclusion from the American possessions of other powers, was amply repaid, by their undisturbed monopoly of the trade with their own colonies. To the American states no such equivalent had been offered; and consequently, the colonial system to them stood only on the ground of an unjust, though ancient monopoly. They had derived no benefit from it, and owed it no respect. Besides, even the principles of this system, partial as they were, went no farther, than to exclude foreign nations from participating in the trade, between the parent country and her colonies. They did not justify the monopoly of the commerce, between the colonies and other countries. The colonial powers of Europe possessed the materials, of a mutually advantageous commerce with the American settlements, in nearly an equal degree; and they all afforded a tolerably good market for the productions of the colonies. The colonial system went no farther, than to confine the trade of each country to its own colonies. It did not aim, at monopolizing the trade, between its colonies and other countries. When, therefore, it was applied to the intercourse between the United States

and the West Indies, it assumed a new and more offensive shape. It sought to engross a trade between these parties, for the benefit of a third party, on the other side of the Atlantic. The materials of that commerce consisted in exports, which Great Britain would not buy from her colonies, and in imports which she could not supply. To insist then, upon monopolizing that trade in her own shipping, by her own navigation acts, was a pretension, revolting to every principle of justice, and offensive to our national character. It was renewing her claims to enforce her old navigation and colonial system, against the United States. It was reverting, to that system of monopoly of the trade and resources of this continent, from which the declaration of independence was the first departure, and which had been uniformly resisted by the policy of the United States.

The time chosen for the renewal of these offensive claims, was peculiarly inapt and ill chosen.

Other nations were compelled, to relax the rigour of their colonial laws. The greater portion of the countries on this continent, had become independent states. The western hemisphere was exalted to an equality with the eastern continent, and Great Britain alone pretended to enforce the antiquated principles, and offensive pretensions of the colonial system.

After a short discussion, Mr. Canning closed the correspondence by a letter, in which he observed, that he would not allow himself to be again drawn into a discussion of topics, already more than sufficiently debated; and afterwards he was said to have boasted in the house of commons, that he had "had the last word." This taunting expression, however, he disclaimed in a letter to Mr. Gallatin, stating that his remark was, "that it was his interest, that the discussion should be closed, as he had had the last word."

The correspondence, between the governments of the United States and Great Britain on this subject was now terminated, and the interdiction of the colonial trade to American vessels went into effect. This termination of the dispute, gave an opportunity to the opposition to the administration, to assume a new ground of attack; and it forthwith proceeded, to condemn the whole course of the government of the United States, in the management of this delicate controversy.

It is one of the most difficult tasks which a government has to perform, to conduct its controversies with other governments in such a manner, as to preserve its own self respect, and while it protects the great national interests, to sustain the claims of its citizens engaged in foreign commerce to their entire satisfaction.

The temporary interests of certain portions of the mercantile community, are often brought into collision with the permanent interests of the country, and any suspension of their gains, even for the general benefit, is submitted to with an ill grace. They are too apt to believe, that their own government has been unreasonable, and that greater sacrifices might have been made, for the purpose of preserving a trade, which in their estimation was vitally important. This disposition creates among a portion of the trading community, materials, of which the opposition in this government has always been prompt to avail itself: and the opposition to the present administration, eagerly sought, to render the discontent on account of the loss of the colonial trade, subservient to their political designs.

The interested feelings of all concerned in the colonial trade, would naturally enlist them against an administration, which, they might be easily led to believe, had deprived them of a lucrative traffic: and every effort was made, to throw the blame of its loss on the American government. It was accused, of having neglected to improve the favourable moment of terminating the negotiation; and its wish, of arranging the terms of the intercourse with the islands by a mutual agreement, was imputed to an undue fond-

ness for diplomacy. In his opening message, the president briefly laid before congress the state of the controversy, together with the correspondence between the two governments, and recommended the subject to its deliberate attention.

On the 23d of January, the committee on commerce in the senate, to which this subject was referred, made an elaborate report, justifying the course pursued by the American government; but recommending, from conciliatory motives, a repeal of the discriminating duties, and of the restriction of British vessels to the direct voyage. These terms, however, were offered, only upon condition, that satisfactory proof should be afforded to the President, previous to the ensuing October, that American vessels were subjected, in the British islands, to no higher duties nor charges than British vessels; and that American vessels might export from the islands, to any part of the world other than the dominions of Great Britain, any articles which British vessels might export to the same place. Unless evidence of that sort should be produced, the ports of the United States were to be closed, against all vessels coming *by sea* from any British possessions not included in the commercial convention. A bill, carrying these principles into effect, was also reported by the

same committee. The opposition to the administration immediately attacked this bill, and arraigned the conduct of the government as imbecile and deficient in sagacity. They charged it with having asked unreasonable terms of the British government; and Gen. Smith, of Maryland, offered an amendment, repealing the discriminating tonnage duty on British vessels, and suspending the operation of the acts of congress of 1818, 1820, and of 1823, until the 31st of December, 1827. By this amendment, the ground contended for by our government, was wholly relinquished. The contest in behalf of our shipping interest was given up. The circuitous route was opened to British vessels without an equivalent; and the navigation system of the United States, as established by the acts of 1818 and 1820, was abolished, without asking any terms from our commercial rivals. In addition to this departure from the uniform policy of the government, the proposed amendment was liable to another objection. It was so drawn as to revive the act of 1823, after the 31st of December; but not so as to revive the acts of 1818 and 1820, by which the restrictive measures of Great Britain, respecting the colonial trade, were retaliated. Those acts having been suspended by the act of 1823, would continue, consequently, to be suspended after the

revival of that act, and some new step, on the part of the American government, would be necessary to place our navigation on a fair footing, unless the British government receded from its ground.

This amendment was advocated by the senators opposed to the administration, who contended that the United States ought to recede from the ground it had assumed, and that a conciliatory offer should be made to the British government.

Mr. SMITH, of Md. undertook to give a history of the controversy concerning the colonial trade, and condemned the government for its conduct in the negotiation. He defended the principles assumed by Mr. Canning, as to the distinct character of the colonial trade, and thought that the administration had lost a most valuable branch of commerce by its own fault. He objected to the act of 1823, and said it passed without congress being aware of the real import of the term "elsewhere." It was an act of the administration, and the negotiation of 1824 was conducted conformably to its principles, which, in his opinion, were maintainable.

He did not approve of an attempt to settle these difficulties by negotiation, but preferred meeting the British acts by legislation. This would have been done at the last session, had there been time. It was not done, and the British



government, offended at our not complying with their terms, closed the colonial ports against our commerce. He also objected to the bill, that it left open all the inland trade with the British colonies, though he doubted whether any law could prevent that trade. The substitute which he offered to the bill he regarded, precisely such a bill as should have been passed last session. It would have saved much trouble, and relieved the administration from the necessity of negotiating. We then stood on high ground, but now we were reduced to offer to Great Britain what she offered to us last year. The substitute offers it in a mild and conciliatory manner. If she accept it, well; if not, she will show that she means to exclude us from the trade altogether.

Mr. SILSREE thought the difference between the bill and the substitute, to consist in the time when the ports of the United States should be closed, and that the bill stated distinctly, that the ports should be closed, while the substitute only left the British government to infer that they would be closed, and that ulterior measures would be adopted for that purpose. This want of explicitness he regarded as an objection to the substitute. Whenever a foreign country has placed an interdiction on our trade, by high duties, they have been met by countervailing

duties. The substitute, however, so far from proposing such a course, throws the whole matter open, with the view of inducing Great Britain to remove her restrictions, by the indefinite character of our act, and the failure on our part to take any retaliatory measures. To him it was questionable, whether Great Britain would take any notice of our act, if some alternative were not adopted.

He did not fear the loss of the trade, even if retaliatory measures were adopted. The products of the United States were necessary to the West Indies, and would find their way to the market by an indirect route, if the direct intercourse was prohibited. The ports have been occasionally opened to our vessels, ever since our independence, by the spontaneous act of the British government, because our productions were necessary, and difficulties were thrown in the way of an indirect supply. This was not then regarded as a boon, but as an act of necessity; and the government of the United States, acting upon that opinion, had met Great Britain upon equal terms, closing our ports when she closed hers, and in every instance demanding reciprocity. He regretted that we had failed in settling this disagreeable question by convention, because it seemed to be the only way in which an arrangement could be satisfactorily made. The whole of

the points could be more easily collected into a focus by treaty, than by separate acts, which might want explanation, and not at once convey the desired understanding. This having failed, congress was called upon to legislate further upon the subject. He trusted that its efforts might not prove unavailing. Although Great Britain had endeavoured to advance her northern colonies at our expense, and to impair our commercial prosperity; he hoped that by firm and mild measures, we should be able to retain, if not to advance our present condition. Thinking that the result desired was to be reached by a frank and manly course, and that our terms both in case of a removal of her restrictions, and of their continuance, ought to be presented in any bill, which congress should pass upon the subject, he should vote against the amendment of the gentleman from Maryland.

Mr. JOHNSON, of Louisiana, said that his duty, as chairman of the committee, in defending the bill, was rendered more difficult, by the extraordinary conduct of the senator from Maryland. That gentleman had distinctly stated, a few minutes previous to the debate, that he approved of the bill, and would sustain it in the senate. He felt therefore much surprised at his motion to strike the interdict from the bill; and his astonishment was not diminished by the studied and

premeditated nature of his attack upon the bill and the report.

He had placed his amendment upon the ground, that this country was in the wrong, and that some act of conciliation was due from us.

He (Mr. J.) thought otherwise. It has been the settled policy of this country, to regulate the terms of its commercial intercourse with other nations, upon terms of equality and reciprocity; to meet them in every act of friendship or hostility, and to be governed by an exact scale of justice.

Such were the principles laid down in the celebrated report of Mr. Jefferson in 1803, which contains the great system of reciprocity, adopted by the government of the United States. He hoped the gentleman from Maryland, and his friends, would look to those principles as their guide, and not to temporary expedients: to meet Great Britain in the true spirit of the nation, and not by humiliating his country before her. Let him remember, that submission never set bounds to encroachment—that free trade is not the proper return for restriction and prohibition: and will not produce their repeal. These principles were violently opposed in their day, and by arguments similar to his own. They have been adhered to until now, and by abandoning them, we degrade the country, destroy our character for consistent policy, yield

up the trade, and with it the power of controlling it—in the vain hope of operating on British magnanimity.

Mr. Johnston then reviewed the history of this controversy, up to the commencement of the present administration, and came to the conclusion, that up to that time, there was no error, except a common error of restriction on both sides, a mutual error, arising from too much attention to the means of legal protection of what should be left open to the competition of skill and enterprise.

Shortly before the commencement of the present administration, a negotiation on that subject had been closed, and propositions mutually exchanged, with an understanding that the negotiation was to be renewed. The present secretary of state, on coming into office, found himself obliged to prepare voluminous instructions for various ministers, and, among others, to the minister at London, on the slave convention, the north eastern boundary, the north west coast, the navigation of the St. Lawrence, and the colonial trade. Instructions were given on some of these subjects, and full powers on all. The slave convention, being the most pressing, was first attended to; but on the colonial question, inasmuch as it was important to settle it definitively, the secretary of state, unwilling to act

solely on his own judgment, sought information from the most distinguished commercial men in the country; and among them, from the gentleman from Maryland himself: and I ask him, if he does not know, that the delay so much complained of, did proceed from the desire of obtaining this information, so as to enable this government to meet the views of the British government, without committing our navigating interests?

Besides, the acts of 1825, which were passed after our minister had left this country for London, entirely changed the state of affairs, and would have rendered any instructions, founded upon the then existing laws, entirely inapplicable.

He could not discover, in any of the transactions connected with this subject, any thing to impair his confidence in the government of his country, or to diminish his belief in its justice and liberality; and he did not envy the senator from Maryland the arduous task he had undertaken, of putting his own country in the wrong—a task painful to his pride and patriotism, in proportion as he may esteem himself successful in the effort.

It is said, that the interdict contains a menace, and that Great Britain will not act under a menace of coercion. The interdict is the necessary consequence of her own acts. She knew that by a stand-

ing law of this country, it was made the duty of the president, to close our ports whenever she closed hers. By excluding our vessels from her colonial ports while she opened them to the rest of the world, she exposed herself to this act of retaliation. It was the necessary effect of her own law. If viewed, therefore, as a menace, it has existed since 1823, and would require a new act of legislation to prevent its operation. With a view to prevent this offensive retaliation, we propose to suspend this act until the 30th of September, to allow Great Britain time to determine on her course. We all agree that the terms are liberal, and that we can offer nothing more : and that if she refuses, an interdict must follow. It is a simple question of time. In his opinion, the interdiction should have followed instantly upon theirs. Their colonies would then have immediately felt its effect, while our trade would have scarcely suffered from the derangement. Our vessels would have merely changed the direction of their voyages.

By the amendment, our ports are left open during the whole year to British vessels. They will, consequently, supply their colonies, and deprive our vessels not only of the colonial trade, but of that trade which would grow out of the suppression of the direct intercourse. On the 1st of

January, their colonies will be supplied for six months ; at the expiration of which period, they will receive the supplies of Canada, and two years will elapse before they will in any way feel the effect of our interdict. In the mean time, our vessels will be thrown out of employment, or be compelled to enter on other pursuits. In fine, the postponement for one year is nearly equivalent to the entire loss, and is an abandonment of our principles and our interest. The interdict proposes to do prospectively, what Great Britain has already done. It proposes to suspend for six months, the operation of a positive law, from motives of respect for her. But this is not enough. We must humiliate our country, by confessing our errors, withdrawing our interdict, and making our submission.

Great Britain has placed herself where she was in 1818, claiming a monopoly of the colonial trade. We stand with our ports opened, by the law of 1823, and we propose to do what we did, under like circumstances, in 1818 and 1820. The amendment is an abandonment of those principles. It is a retrograde movement—a sacrifice of principle to temporary expedients, and is marked by a total want of consistency and firmness. No alternative is left to us but submission or interdiction : and as the latter is

démanded by our interest, our principles, and our honour, he should oppose the amendment.

Mr. BRANCH, of North Carolina, said that, "we were bound first to meet the British government on conciliatory grounds. The *amende honorable* was due from this government to Great Britain, and he hoped its first act would be, to acknowledge that this country had been wrong. Let us do this in kindness, and tender friendly terms to the British government. If they then rejected them, they would have assumed the fault; and the blame, let what might ensue, would not attach to this government. Such an acknowledgment was no more, than the committee and this government had already made; and congress should not shrink from making it, lest it should shock the morbid sensibility of the powers that be.

Mr. HOLMES was in favour of offering to Great Britain, an alternative, so that if the terms offered by the amendment of Gen. Smith were not acceded to by the first of August, the intercourse with the British colonies should be put an end to, by a proclamation from the president. He thought the amendment conceded too much, and proposed no ulterior measures. He accordingly offered an amendment to that effect, but it was rejected by a vote of 32 to 13.

Mr. HOLMES also offered an

amendment, for the purpose of making the non-intercourse with the British colonies general; and with that view, he moved to strike out the words "by sea," from the reported bill, which amendment was adopted by a vote of 32 to 12.

Mr. MACON said, he wished to obtain our object peaceably, and he understood the amendment of Gen. Smith to be an offer on the part of the United States, to accede to terms formerly offered by Great Britain, and rejected by us. He wished to make that offer to the British government, before this country went any farther.

Mr. VAN BREXEN imputed the difficulty to the executive department of the government, upon whom he also charged the failure of the act, brought forward at the first session of the present congress. He asserted, that in 1824 the British government offered in substance the same terms, that the United States determined to accept in 1826; and asked the reason of a delay of two years in coming to a conclusion, which should not have taken as many months. In the mean time, the British ministry had changed its mind, and prescribed the terms of the intercourse by the acts of 1825. He protested against the responsibility of this failure being imputed to the senate. It belonged to the executive, and it was to be regretted that, by its too great wish to obtain some eclat in settling this

controversy, it had not only lost the trade for an indefinite period; but had reduced the country, from the position of proposing terms in the consciousness of right, to the humble condition of a suppliant.

But though he condemned the conduct of the government in this negotiation; he also considered as unsound the principles assumed by the British government. He wished, therefore, that the act should carry on its face the terms, upon which the intercourse might be opened, and stated that he contemplated to offer an amendment to that effect, provided the day when the amendment was to go into operation should be altered, from the 31st of December to the 15th of November.

The day was not altered, and Mr. Van Buren did not submit the amendment referred to, nor did he vote for the amendment afterwards proposed in the house.

Mr. BERRIEN thought the best mode of commencing a conciliatory course, would be to repeal the objectionable part of the act of 1823, and consequently he preferred the amendment of Gen. Smith to the bill of the committee. The orders in council, closing the ports, had issued, in consequence of the negligence on our part to negotiate. The blame was to be imputed to the executive, and not to congress. He considered, that this government was bound to take the first

steps towards a settlement of the differences now existing. If Great Britain should reject them, she would have placed herself in the wrong, and at the next congress, this government, if convinced she had determined to exclude us from her colonial possessions, might adopt restrictive measures.

Mr. WOODBURY offered an amendment to Gen. Smith's amendment, by which the president was authorized, by proclamation, to suspend altogether the operation of the acts of congress enumerated in his amendment, provided he received satisfactory evidence, before the 31st of December, that Great Britain had removed prohibition to our intercourse with her colonies, and that all discriminating duties were taken off. He also objected to the limited nature of the non-intercourse, contemplated by the bill reported by the committee. While he confessed the severe and unequal privation, to which a total non-intercourse would subject the population on the interior frontier of the United States; he could not consent to prohibit the trade on the Atlantic frontier, while the trade with Canada was permitted. It would throw into the hands of the Canadians, the trade which was most desirable, and give to British navigation almost a monopoly of our products for her West India market. To be efficient, a measure of this character must be thorough. The

amendment of Mr. Woodbury was adopted.

Mr. CHAMBERS, from Maryland, proposed to amend the substitute of his colleague, by adding a section, interdicting the intercourse with the British colonies after the 31st of December, unless their ports should be opened to American vessels before that time ; but the senate rejected the amendment by a vote of 26 to 16, and then passed the substitute by a vote of 32 to 10, and sent it to the other house for its concurrence.

In the house of representatives, a report, accompanied by a bill similar to that originally reported to the senate, was brought in from the committee on commerce on the 22d day of January, and a discussion took place, resembling in character the debate in the senate on the same subject. Previous to receiving the bill from the senate, the house had determined to make the non-intercourse with the British colonies general, by striking out the words "by sea," which had been inserted in the committee of the whole ; and, upon motion of Mr. Webster, an amendment was adopted without a division, by which the president was authorized to declare the ports of the United States open to British vessels, provided American vessels were allowed, before the 20th of September, to import into the British colonies from the United States,

such manufactures and productions of the United States as British vessels were permitted to import. These amendments, together with the bill, were all laid upon the table, upon receiving the bill from the senate ; and the friends of the administration, now endeavoured to carry such amendments to that bill as should, in their opinion, best subserve the interest, and maintain the character of the country. With that view, Mr. Tomlinson, who brought in the report and bill from the committee of commerce, moved an amendment, for the purpose of reviving, after the 31st of December, the restrictive acts of 1818 and 1820, in case no arrangement, in relation to the colonial trade, should be made between the governments, previous to that day.

The amendment also proposed to repeal the act of 1823, by which the terms of the intercourse were regulated.

The introduction of this amendment revived the question, whether it should be distinctly stated in the act of congress, proposing terms to the British government, that an interdiction would take place after a specified time, unless those terms were accepted : or whether the terms should be proposed, and without any conditions. In the latter event, it would be necessary for the American government to adopt other measures, for the purpose of effecting what the

amendment proposed. By the law, as it came from the senate, the intercourse was left open to British vessels for more than a year after it had been closed to American vessels ; and no provision was made to close it after the time, although no concession should be made by Great Britain in the mean time.

With the view of effecting that object, the amendment was proposed, and similar grounds were taken, in its support and defence, as those urged in the senate, in behalf of the bill originally reported.

Mr. TOMLINSON, in supporting the amendment, said, that he should have preferred the 30th of September as the period when the interdict should take effect : but he was not disposed to insist on that day, and was willing, in order to secure the passage of the act, to extend the period to the 31st of December next.

He was, however, utterly opposed to the adoption of any measure, which did not establish an ultimate exclusion of British ships from the colonial trade, in case Great Britain should continue the provisions of her order in council : and he wished the British government distinctly to understand, that such is our determination.

Mr. FORSYTH thought, that by insisting on this amendment, the bill would be lost, and that the president would be compelled, by the

existing laws, to close the trade by proclamation at once.

Mr. WEBSTER objected to the bill as it came from the senate, because it was a measure of pure, unminged concession. It also repealed, after the 31st of December, the discriminating tonnage duty, which, he presumed, was not the intention of the senate, inasmuch as it put it in the power of Great Britain to carry on the colonial trade, in her own vessels, after that period, upon better terms than even at present ; and that without any concession on her part.

He thought the house could not be too prompt in repeating the declaration which this government had ever maintained,—that we would have no trade with those countries, where our vessels were not permitted to go. While he would propose reasonable terms to the British government, and afford ample time for their acceptance, he would, at the same moment, express the determination of our government, that if those terms were not accepted, the intercourse must cease. For these reasons, he supported the amendment. He found it difficult to persuade himself, that the senate would not accede to it. He would, however, leave the option with that body, to assent to it, or to compel the president to close the trade immediately by proclamation. If the latter course was preferred, so be it. For his own



part, he could only say, that he thought the bill, in its present shape, was misunderstood by those who supported it, and was incompatible with the interest and honour of the country.

The house having adopted the amendment, by a vote of 80 to 56, passed the bill, and returned it to the senate for its concurrence on the second of March.

A short debate then ensued in the senate, but the amendment was finally rejected, by a vote of 26 to 18.

The disagreement of the senate having been announced to the house, it was resolved, by a vote of 71 to 47, to insist on the amendment, and to ask a conference, which was granted by the senate.

On the part of the house, the conferees were Messrs. Tomlinson, Webster, and Wurtz: on the part of the senate, Messrs. Tazewell, Smith, of S. C., and Johnston. The conferees not having agreed, the house, after an animated debate, in which Messrs. Cambreleng, McDuffie, Buchanan, Forsyth, and Ingham, opposed the amendment; and Messrs. Webster, Wright, and Wurtz, sustained it, determined to adhere to its amendment, by a vote of 75 to 65.

The senate, on the other hand, refused to recede from its disagreement to that amendment, by a vote of 25 to 20: and the bill was lost.

Congress having adjourned, without making any law, for the purpose of meeting the British restrictive measures, the president, in pursuance of the power vested in him by the act of 1823, issued a proclamation, dated March 17th, closing the ports of the United States, against vessels from the British colonies, which had been opened by the act of 1822.

The restrictive measures of the British government, were in this manner fully reciprocated, and the shipping of both countries, being excluded from the direct intercourse, the trade between the United States and the British West Indies, was carried on through the islands belonging to other European powers.

Some discontent was manifested by some classes of the community, at this interruption of their business: and the leading politicians, opposed to the administration, eagerly seized upon this subject, as a popular topic of declamation against the president and the secretary of state. Public opinion, however, sustained the government in the stand taken by it in this controversy: and great regret was felt, that in the warmth of opposition, the members of congress, opposing the administration, should have lost sight of the interest and dignity of their own country; and defended the course taken by the British government.

## CHAPTER IV.

*Opening of Congress—Bankrupt System—Failure of Law of 1800—State Laws—Postponement of Bankrupt Act of last session—Mr. Haynè's Proposition—Discussion in Senate—Mr. Branch's Amendment—Proceedings thereon—Defeat of Bill—Vice President's Appeal—Report of Committee—Publishing the Laws—Character of the Debate—Creek Controversy—Message of the President thereon—Proceedings in Senate—Debate in House—Report—Cession of Land by Creeks ; and conclusion of Controversy.*

PURSUANT to the federal constitution, the second session of the nineteenth congress commenced on the 4th of December, 1826, when the two houses were organized in the usual manner. In the senate, thirty-seven members attended. In the house, one hundred and seventy members were present at the call of the roll. The next day the president transmitted his annual message, which will be found in the second part of this volume.

This document gave a clear account of the foreign affairs of the country, and particularly alluded to the controversy with Great Britain, respecting the trade with her colonies. The death of the emperor Alexander, was mentioned in terms, which were called for by the uniform friendly feelings

manifested by that monarch towards the United States. With France and the Netherlands, our commercial relations were described, as on a more favourable footing, than at the commencement of the last congress.

The state of the public finances were fully detailed, and while it appeared that the revenue was not so large as at the last annual report, its deficiency was not so great as to prevent the application of \$7,067,039 to the reduction of the public debt, and \$3,944,359 to the payment of interest. The receipts of the post office exceeded its expenditure nearly \$80,000.

The president proceeded, in discharge of his constitutional duties, to recommend to the consideration of congress, a system for the per-

manent increase of the navy ; the unsettled land claims in Florida and Louisiana ; the works of internal improvement, reported by the board of engineers ; and particularly directed its attention to the irregularities of the Brazilian and Buenos Ayrean squadrons, towards neutral flags.

The estimates of appropriations for the different departments of the government, were submitted, with the message ; as was a system of cavalry tactics, prepared during the summer, under the direction of the war department.

Other topics were introduced into the message, but as it will be found among the public documents, (page 1,) it is deemed unnecessary to give a more detailed account of its contents.

The evils growing out of the distracted condition of the country, at the close of the revolutionary war, and the unwise legislative expedients adopted by the state governments, under the old articles of confederation, to alleviate the pecuniary distresses of their constituents, induced the sagacious patriots, who framed the federal constitution, to vest in the national government the power to enact laws of bankruptcy, and to prohibit the state legislatures from passing any laws impairing the obligation of contracts. By these provisions, they hoped to remove from the lo-

cal assemblies the temptation of rendering themselves popular at the expense of our national character, by sanctioning relief and appraisement laws, and all those various devices for temporary alleviation of pecuniary embarrassments, which disgraced the statute books of several of the states, previous to the adoption of the federal compact. At the same time they intrusted to congress, a body more dignified in its character, and, from the nature of its duties, more mindful of our national reputation, the delicate and responsible power of deciding, when the claims upon a bankrupt debtor shall be discharged, upon a surrender of his property ; and thus reconciling the claims of the citizen to the enjoyment of personal liberty, with the effective obligation of private contracts. This power, from peculiar circumstances, was not exercised until the year 1800, when a bankrupt law was passed, and a short and unsatisfactory trial was given to the system, during a period of great political excitement.

In 1803 this law was repealed, and from that time until the decision in the case of *Sturges v. Crowninshield*, the state insolvent laws took the place of a general bankrupt act, and a system of local and temporary expedients, under the authority of the state legislatures, was introduced, for the relief of unfortunate debtors, which did

## BANKRUPT SYSTEM.

not differ materially in principle from those under the old confederacy, and which had similar effects in injuring the character of our legislation, and in impairing the mercantile credit of the country.

That decision, which was made in 1819, gave a fatal blow to this species of fraudulent legislation. The state legislatures could no longer enact statutes affecting the obligation of existing contracts; and as much doubt was entertained as to their power of passing laws operating prospectively upon future contracts, a very general expectation prevailed, that congress would exercise the authority specifically granted to that body, by passing a general bankrupt act. Until that was done, insolvent debtors were entirely at the discretion of their creditors, and in conformity with the wishes of a large majority of the nation, the president, in his first message to the nineteenth congress, recommended the subject to its particular attention.

At the first session, a bill was introduced into the senate, for the purpose of establishing an uniform system of bankruptcy, but on account of the great length of the discussion on the Panama mission, no time was allowed for the proper discussion of its details, and it was after some debate indefinitely postponed.

At the commencement of the succeeding session, Mr. Hayne, of

South Carolina, who had distinguished himself on a former occasion, as the eloquent and enlightened advocate of a general bankrupt system, introduced, pursuant to notice, a bill similar in its provisions to that which had been already indefinitely postponed.

After several amendments had been made to the bill, which were generally accepted without discussion, a motion was made by Mr. Branch, to strike out the ninety-third section, which authorized proceedings under the statute; upon the petition of creditors against bankrupts not engaged in trade or merchandise. It was, however, provided by this section, that a commission of bankruptcy could not issue in such cases, without the consent of the bankrupt. To this section it was objected by Mr. Branch, that it rendered the law unconstitutional.\* Congress had only the power of establishing an uniform system of bankruptcy; and as this section extended the benefit of the bankrupt system to agriculturists upon different terms from those applied to the traders, it was not uniform in its operation, and, therefore, was not within the terms of the constitution.

He could not be convinced, but that the only means of rendering the law uniform, would be to strike out that section.

Mr. Rowan thought that section the most valuable part of the bill.

and he saw no reason, why the benefits of the bill should not be extended to all classes. The farmer was exposed to risks as well as the merchant, and although in England, where real estate was guarded against a total sale, by a salvo contentmento, the bankrupt law did not extend to the agriculturist, no reason for such distinction existed in this country, where land might be sold under execution. He was not in favour of all the details in the bill, but he certainly should not vote for it, if that section was left out. He was in favour of the application of the bill to all classes.

Mr. Holmes did not think it necessary that a bankrupt system, in order to be uniform, should be exactly alike in the form of its application, to the different classes of the community. He also considered the 93d section, as the most valuable provision in the bill, and he should vote for it, if that clause was retained, but otherwise not.

Mr. Van Buren said he was in favour of a bankrupt system, and that all the provisions of the present bill, except the 93d section, met his approbation. For that, however, he could not vote. It was an insolvent, and not a bankrupt law, and he thought congress had not the power to pass such a law. He did not mean to lay down a clear and unexceptionable rule of discrimination between a bankrupt and an insolvent system, but it was

certain, that for 300 years, they have been kept distinct in England. They differed in their origin, object and provisions, and were always executed by different tribunals. The object of the one was to afford a summary remedy, for creditors against failing or fraudulent debtors; that of the other, to give relief to insolvent debtors.

The constitution of the United States, had conferred upon congress the power to establish the former; and had left the right, and the duty of passing the latter, to the state governments.

This section of the bill he considered an insolvent law, and if it passed, provided it were within the power of congress to pass such a law, it would deprive the states of the right to pass any law on the subject of insolvency, except by permission of congress. There is no middle ground. If the distinction between bankruptcy, and insolvency be abolished, all state legislation is subjected to the arbitrary supervision of congress. He therefore thought, it was not within the power of congress to pass such a law.

He also considered, that it would cause an injurious extension of the patronage of the federal government, and an insupportable enlargement of the range of its judicial power.

The portion of litigation, arising out of the insolvent laws in the

state courts, was familiar to all, and that of necessity, would be immediately transferred to the federal courts.

For these reasons he should prefer the loss of the bill itself, to its passage with the 93d section.

Mr. Berrien did not regard this distinction, which it was said, existed between bankruptcy, and insolvency as material in this discussion. By the terms of the constitution, the power of congress extends to the whole subject, and the power of the states, over any part can at most be only concurrent. But the assertion of such a power, imposes the obligation to define the sphere, within which it may separate. This has not been done. On the contrary, generalities have been dealt in, and the separte has been told of a distinction, well known and uniformly recognised; but it has not been informed, what that insolvency is, over which the states claim exclusive control. In the English courts no distinction has been recognised sufficiently distinct, to warrant any limitation of the legislative power, to be derived from it, and such has been the express opinion of the supreme court of the United States.

He thought that the regulation of the whole subject, was confined to congress. The power "to establish uniform laws on the subject of bankruptcy," was a power to declare who shall become a bank-

rapt, as well as what acts shall constitute bankruptcy, and what shall be its effects both in relation to debtor and creditor.

The whole difficulty originated in a confusion of ideas, and in not accurately distinguishing between the principal and its incidents of object and mode. The power to pass a law is one thing; the objects to which it shall be applied another; and it is a further consideration, in what manner it shall be exercised. The constitution confers the power. Here it stops. The citizens of the United States are here, as in all other cases, the objects on which that power may be exerted, unless some specific limitation be found in the instrument, while the mode in which it is to be exercised, is left to the discretion of congress. The only limitation to which the power is subject, is, that the laws be uniform; and the necessary consequence is, that an exclusive power on the part of the states, involves an inconsistency with the grant to congress; and even a concurrent power must be exercised, in subordination to the general law.

The expediency of admitting such a provision into the bankrupt system, is another question; and if bankruptcy be considered a privilege, all are entitled to its benefits.

Perhaps it would be harsh to subject the landholder to the provisions of a bankrupt law, which

would compel him to sacrifice his real estate at a moment of temporary embarrassment, in consequence of his not punctually complying with his engagements. But this section does not contemplate a bankruptcy in the agriculturist, without his assent; and the vicissitudes of the last twenty years, have taught us, that pecuniary distress has not been limited to the merchant, but has often pressed heavily upon the farmer and planter.

In the mercantile class, credit is more essential. Punctuality is indispensable to its preservation; and the nature of mercantile pursuits, enables merchants to obtain credits far beyond those given to those not in trade, who generally have a greater capital in proportion to their debts. This difference in their situation, justifies the coercive character of the bankrupt act, towards merchants; and shows that it ought not to be applied in that manner to agriculturists.—Anxious as he was to relieve the distresses of the mercantile community, he could not consent to legislate for them alone.

Mr. WOODBURY said, that the limitation of the power of congress existed in the grant itself. The grant was, to legislate on the subject of bankruptcy, and on that alone. According to his apprehension, that word, as used in the constitution, was never intended to

extend beyond embarrassments and failures among mercantile men. The border line between that and insolvency, in certain cases, may be not easy to distinguish; but in common parlance, and in technical acceptance, they had distinct meanings. One striking feature was, that a bankrupt system was compulsory on the debtor; an insolvent system was voluntary. One was for the benefit of the creditor; the other for the benefit of the debtor. The compulsory feature is also a distinguishing characteristic in a bankrupt law. Now, this last section is not compulsory, but purports to be for the benefit of the debtor, and depends wholly upon his consent. It is, therefore, strictly an insolvent provision, and whether beneficial in its operation or not, it is not within the natural scope of a system of bankruptcy.

He thought that it was not constitutional. If congress could embrace farmers in the act, it could make it compulsory upon them. In this manner, every farmer and mechanic in the country can be subjected, on committing an act of bankruptcy, to have his property seized and sacrificed, and all his freehold franchises taken away. This, too, although he may be perfectly solvent. He believed it would prove one of the greatest curses ever inflicted on any country. Our farmers were not accustomed to punctuality, nor did they

keep books. By passing this bill, they might be rendered by subsequent amendments, on a single failure, to all the penalties of this bloody system of bankruptcy; and the absence of books, would be considered as evidence of fraud, or if no such inference were drawn, a wide door would be opened to its perpetration.

He feared also the operation of this consent of the agriculturists. It would in time render them liable to the compulsory process of bankruptcy. Besides, if they did consent, he thought that it was not a question solely between them and the United States. The states themselves, had rights; a right of jurisdiction over their territory, and over their citizens; and he inquired, when they had ceded this right to the federal government. If consent of individuals could confer rights upon the national government, subjects and classes would be brought within its power, which were never contemplated by the framers of the constitution. An alarming increase of the federal patronage, would take place, if this section went into effect, and he could not vote for it.

MR. TAZEWELL objected to the bill itself, as being unconstitutional in its details, and inexpedient; that it increased the patronage of the president in an alarming degree; and that it was an unwarrantable invasion of the rights of the states.

When the former bankrupt law was in existence, he resided in a seaport town, and was concerned in almost every case of bankruptcy, that occurred during its operation; and he assured the senate, that he never knew a solitary case, in which the creditor obtained one cent. The debtor had often a large estate, but by the time it had been filtered through the hands of the commissioners, and the other officers, not a fraction was left for the creditor; the whole had been absorbed in its progress.

MR. HOLMES said, that the object of a bankrupt, and an insolvent system, was the same, the relief of the debtor; and he was in favour of extending that relief to all classes, accompanied with proper restrictions.

MR. HAYNE, who brought in the bill, stated that, deeply convinced, as he was, of the necessity of a bankrupt law, he could not consent to extend the compulsory system to the agriculturist. He was satisfied, however, that such a law could not pass, without the farmers and manufacturers were admitted to a participation in the benefits of the bill. Such was the objection, urged to the passage of the bill proposed, in congress several years ago. The representatives of the agriculturists, said that it granted privileges to a particular class. By their opposition, the bill was lost; and two bankrupt bills were suc-



cessively defeated at subsequent sessions, for the same reason. It thus became part of the history of the country, that no bankrupt bill could pass without a clause, extending the relief to others than traders. Although not without difficulties respecting this section, he thought the necessities of the country, so strongly required a bankrupt law, that he was induced to support this section, rather than to lose the bill.

He did not apprehend any great extension of the jurisdiction of the federal courts, from the passage of this law.

The bill cannot possibly embrace many, living out of the cities.

—Farmers are not so much exposed to vicissitudes as merchants; and when they meet with misfortunes, they curtail their expenses. The credit is small, and total insolvency among them is but of rare occurrence.

Neither did he fear any dangerous increase of executive patronage, even if that were a reason for opposing a necessary law. The fact was, that the officers created by this bill, were less than thirty in number. The patronage of the executive was reduced to almost nothing. Under the old law, the appointing of commissioners was intrusted to the court. Soon after Mr. Jefferson came into power, an act was passed, authorizing the president to appoint commissioners,

without limitation as to number; and it has been said, that there was not less than one hundred in each state. Whether the patronage was compared with the old law, or with the number of United States officers now appointed, he considered the apprehension as entirely groundless. He thought that the decisions of the supreme court, rendered it necessary to render the laws on the subject of bankruptcy uniform; and he had no apprehensions of the exercise of this power, because it was liable to abuse. For his own part, he was much more desirous of the establishment of a bankrupt system of some sort, than that it should contain any particular provisions; because he was satisfied, that when once established, it would be improved by time and experience, and be productive of much good to the community.

Upon the question to strike out the ninety-third section, the vote stood 19 in the affirmative, 26 in the negative.

Mr. Reed then moved that the law should operate only prospectively, and that it should not discharge the debtor from any existing contracts; and supported his motion in a speech, which was answered by Mr. Berrien.

Mr. Reed thought, that the states had the power to pass bankrupt laws, which should be prospective in their operation; that congress had no power to pass a bankrupt

law, operating retrospectively upon existing contracts, but is limited by the spirit of the constitution to a similar power with that possessed by the states; and that it would be safer to trust that species of legislation to the state legislatures.

This construction of the constitution was not, however, deemed tenable, and was rejected, after a short discussion, by a vote of 32 to 16.

• • After an ineffectual attempt to re-consider the vote on the ninety-third section, the bill was rejected by a vote of 25 to 15.

The next day, February 1st, this vote was reconsidered, and the bill was recommitted, with directions to strike out the 93d section. This being done, the question on its passage was again taken: but having lost the support of Mr. Benton, of Missouri, and the two senators from Kentucky, in consequence of striking out the ninety-third section, the bill was rejected by a vote of 27 to 21—the whole senate being present.

Shortly after the commencement of the session, an article appeared in a newspaper, published at Alexandria, D. C. intimating that one Mix, who had been engaged in a certain contract made with the war department, while the vice president was secretary of war, had accused him of being a participant in its profits. As that con-

tract had been the subject of much animadversion, during the administration of Mr. Monroe, great sensation was produced by this publication; and the vice president determined to present the subject before congress, and to demand an investigation, on the ground that this accusation had been placed among the records of the war department, and had been made the basis of official acts.

On the 29th of December, he accordingly addressed a letter to the secretary of the senate, vacating his seat, until the subject was investigated, and a letter to the speaker of the house, enclosing the following communication to the members of that body.

“An imperious sense of duty, and a sacred regard to the honour of the station which I occupy, compel me to approach your body in its high character of grand inquest of the nation.

“Charges have been made against me of the most serious nature, and which, if true, ought to degrade me from the high station in which I have been placed by the choice of my fellow citizens, and to consign my name to perpetual infamy.

“In claiming investigation of the house, I am sensible that, under our free and happy institutions, the conduct of public servants is a fair subject of the closest scrutiny, and the freest remarks, and that a firm and faithful discharge of duty at

fords, ordinarily, ample protection against political attacks; but when such attacks assume the character of impeachable offences, and become in some degree official, by being placed among the public records, an officer thus assailed, however base the instruments used, if conscious of innocence, can look for refuge only to the hall of the immediate representatives of the people. It is thus I find myself unexpectedly placed.

"On Wednesday morning last, it was for the first time intimated to me, that charges of a very serious nature against me were lodged in one of the executive departments; during the day, rumours from several quarters, to the same effect, reached me; but the first certain information of their character was received yesterday morning through one of the newspapers of the district. It appears from its statements, that I am accused of the sordid and infamous crime of participating in the profits of contracts formed with the government through the department of war, while I was intrusted with the discharge of its duties, and that the accusation has been officially presented as the basis of an official act of the war department, and consequently to be placed among its records, as a lasting stigma on my character.

"Conscious of my entire innocence in this, and every other pub-

lic act, and that I have ever been incapable, in the performance of duty, of being influenced by any other motive than a sacred regard to the public interest, and resolved, as far as human effort can extend, to leave an untarnished reputation to posterity, I challenge the freest investigation of the house, as the only means effectually to repel this premeditated attack to prostrate me, by destroying for ever my character.

"J. C. CALHOUN,  
*Vice President of the  
United States.*"

Upon the receipt of this communication, Mr. Floyd moved that it be referred to a select committee, with power to send for persons and papers, which motion was carried; and a committee of seven was appointed for that purpose.

After a long and laborious examination, which lasted a great portion of the session, the committee made a report, stating that no charges against the vice president had been placed among the records of the war department; but that, on the contrary, the accusation of Mr. was regarded by the present secretary of war (Mr. Barbour) as a base calumny: and that, so far from having been made the basis of an official act, the secretary of war informed the vice president, through a mutual friend, of the light in which he viewed the charge, and

the contemptuous manner in which he had treated it, before the vice president had made any communication to the house. The committee, having thus performed the duty assigned to them as to these specific points, went on to examine into the charge itself: and after exculpating the vice president from having any participation in the profits of that, or any other contract, they stated the facts resulting from their examination of the witnesses. From these it appeared, that the contract was divided into four shares, at the time, or shortly after it was made, between Elijah Mix, R. C. Jennings, C. Vandevanter, the chief clerk in the war department, and one person whose name could not be ascertained. The character of Mix, the contractor himself, was deemed so infamous, that his account of the transaction was rejected, and it could not be ascertained from the other witnesses, who was the secret partner. It was, however, shown to the satisfaction of the committee, that it was not the vice president. The report having been read by the clerk; Mr. Floyd, one of the committee, rose and offered a report, drawn up by himself, which differed from the report of the committee, chiefly as to the degree of turpitude imputed to Mix, and as to the minuteness with which the circumstances, exculpating the vice president, were detailed. Some debate

arose between the members of the committee as to the difference between the reports, and the house, without any objections being made to the granting leave, permitted Mr. Floyd to present his report, and ordered it to be printed. A protest to the proceedings of the committee was also presented by Mr. McDuffie, who acted in behalf of the vice president during the investigation, and was transmitted by the committee to the house without comment: but the house refused to have it read, by a vote of 81 to 78. A motion was then made to print the documents, but it was negatived without a count. The only effect of this inquiry seems to have been, that certain officers of the government were dismissed by the president, upon the report of the committee: and a general impression prevailed, that the vice president was unnecessarily sensitive to an accusation, which might have been properly disregarded, whether he considered the character of the accuser, or the manner in which the charge was treated by his successor.

Another topic, productive of much unnecessary excitement, was introduced into the house of representatives by Mr. Saunders, of North Carolina, on the 31st of January, in the shape of a resolution for information. Resolutions of this character are of such fre-

quent occurrence, that it is difficult to ascertain, whether they are moved with the view of affording information to congress, on any subject properly within its cognizance; or merely of furnishing sustenance and aliment to party spirit. Even where the latter is the real motive, it may be so covered under the ostensible purpose of informing the public of the movements of the government, that it is difficult to refuse any call for information, upon any defensible ground. Still there are resolutions of a nature so purely political, and so obviously belonging to the party questions of the day, that they cannot be entertained by the national legislature, without losing sight of its dignity, and converting it into a mere club for partisan debates, and personal disputes. This was emphatically the case with the resolution in question.

For the purpose of bringing the motives of the secretary of state into suspicion, in the selection of those newspapers in which the laws of congress were directed to be published; Mr. Saunders moved, that the secretary of state communicate to the house a list of all such papers, and also a list of any changes made by him, in the newspapers publishing the laws, and the reason of each change.

It appeared, upon investigation, that in pursuance of an act directing the publication of the laws

passed each session, in the several states, 82 newspapers were employed each of which received from \$100 to \$200 per annum, on that account.

After the appointment of Mr. Clay, as secretary of state, in the exercise of his official discretion, he transferred the public printing from four of the journals, employed by his predecessor, to four other newspapers in the same states. In three of these instances, it happened that the papers, from which the official patronage was taken, were violent opposition papers; and the exercise of his official discretion in this manner, was represented as an attempt to corrupt the public press.

Much to the surprise of all reflecting men, the house of representatives entertained the proposition; and through the whole month of February, the hour allotted each day to the discussion of resolutions, was consumed in speeches on this resolution, either in denunciation of the persons, and measures of the present administration; or in exculpating them from the charges of the opposition. The resolution remained undecided on the table, at the close of the session; but its introduction among the topics, which ought to occupy the attention of congress; the manner in which it was discussed; and the crimination, recrimination, and personal quarrels growing out of the

debate, inflicted a wound on the character of the house, which materially impaired its standing in the public estimation.

In the last volume, a succinct account was given of the origin of the dispute between the state of Georgia and the general government; (pages 12-343) and an opinion was expressed that all the claims of Georgia, against the United States, on account of the lands belonging to the Creek tribes, having been settled by the treaty of the 22d April, 1826, the business might be considered as happily terminated. The conduct of the constituted authorities of that state, after the ratification of that treaty, show that we had not justly appreciated the motives by which they were actuated in this controversy, so degrading to the character of the state, and so threatening to the harmony of the union.

Instead of waiting, until the Creek tribes had removed from their ceded lands, governor Troup ordered the surveyors employed by him, to enter the Indian territories, and to commence their surveys, previous to the time presented by the treaty for their removal. The Indian chiefs, relying upon the faith of the United States, protested against any encroachment upon their boundaries before the day agreed upon; and threatened to prevent the surveyors from proceeding by force. On the other

hand, governor Troup ordered out a militia force, to support the surveyors. In this posture of affairs, when a hostile collision seemed inevitable, and under circumstances which placed the whites clearly in the wrong, the president determined to enforce the laws of the union, for the purpose of preventing such collision, and to submit the whole subject to congress, in order to have it determined, whether any new measures were necessary in the conjuncture. On the 5th of February, he accordingly transmitted to both houses the following message:

*To the Senate and House of Representatives of the United States.*

WASHINGTON, 5th Feb. 1827.

I submit to the consideration of congress, a letter from the agent of the United States with the Creek Indians, who invoke the protection of the government of the United States, in defence of the rights and territory secured to that nation by the treaty concluded at Washington; and ratified, on the part of the United States, on the twenty-second of April last.

The complaint set forth in this letter, that surveyors from Georgia have been employed in surveying lands within the Indian territory, as secured by that treaty, is authenticated by information unofficially received from other quarters, and there is reason to believe that one or more of the surveyors

have been arrested in their progress by the Indians. Their forbearance, and reliance upon the good faith of the United States, will, it is hoped, avert scenes of violence and blood, which there is otherwise too much cause to apprehend, will result from these proceedings.

By the fifth section of the act of congress, of the 30th of March, 1802, to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, it is provided, that if any citizen of, or other person resident in, the United States, shall make a settlement on any lands belonging, or secured, or granted by treaty with the United States, to any Indian tribe; or shall survey, or attempt to survey, such lands, or designate any of the boundaries, by marking trees or otherwise, such offender shall forfeit a sum not exceeding one thousand dollars, and suffer imprisonment not exceeding twelve months. By the 16th and 17th sections of the same statute, two distinct processes are prescribed, by either or both of which, the above enactment may be carried into execution. By the first, it is declared to be lawful for the military force of the United States to apprehend every person found in the Indian country, over and beyond the boundary line between the United States and the Indian tribes, in violation of any of the provisions or regulations of the act; and im-

mediately to convey them, in the nearest convenient and safe route, to the civil authority of the United States, in some one of the three next adjoining states or districts, to be proceeded against in due course of law.

By the second, it is directed, that, if any person charged with a violation of any of the provisions or regulations of the act, shall be found within any of the United States, or either of their territorial districts, such offender may be there apprehended, and brought to trial in the same manner as if such crime or offence had been committed within such state or district; and that it shall be the duty of the military force of the United States, when called upon by the civil magistrates, or any proper officer, or other person duly authorized for the purpose, and having a lawful warrant, to aid and assist such magistrates, officers, or other persons so authorized, in arresting such offender, and committing him to safe custody for trial, according to law.

The first of these processes is adapted to the arrest of the trespasser upon Indian territories, on the spot, and in the act of committing the offence. But, as it applies the action of the government of the United States to places where the civil process of the law has no authorized course, it is committed entirely to the functions of the military force to arrest the person of the

offender; and, after bringing him within the reach of the jurisdiction of the courts, there to deliver him into custody for trial. The second makes the violator of the law amenable only after his violence has been consummated, and when he has returned within the civil jurisdiction of the union. This process, in the first instance, is merely of a civil character, but may, in like manner, be enforced, by calling in, if necessary, the aid of the military force.

Entertaining no doubt that, in the present case, the resort to either of these modes of process, or to both, was within the discretion of the executive authority, and penetrated with the duty of maintaining the rights of the Indians, as secured both by the treaty and the law, I concluded, after full deliberation, to have recourse on this occasion, in the first instance, only to the civil process. Instructions have accordingly been given by the secretary of war, to the attorney and marshal of the United States, in the district of Georgia, to commence prosecutions against the surveyors complained of as having violated the law, while orders have at the same time been forwarded to the agent of the United States, at once, to assure the Indians, that their rights, founded upon the treaty and the law, are recognized by this government, and will be faithfully

protected; and earnestly to exhort them, by the forbearance of every act of hostility on their part, to preserve unimpaired, that right to protection, secured to them by the sacred pledge of the good faith of this nation. Copies of these instructions and orders are herewith transmitted to congress.

In abstaining, at this stage of the proceedings, from the application of any military force, I have been governed by considerations which will, I trust, meet the concurrence of the legislature. Among them, one of paramount importance has been, that these surveys have been attempted, and partly effected, under colour of legal authority from the state of Georgia. That the surveyors are therefore not to be viewed in the light of individual and solitary transgressors, but as the agents of a sovereign state, acting in obedience to authority which they believed to be binding upon them. Intimations had been given, that, should they meet with interruption, they would, at all hazards, be sustained by the military force of the state; in which event, if the military force of the union should have been employed to enforce its violated law, a conflict must have ensued, which would, in itself, have inflicted a wound upon the union, and have presented the aspect of one of these confederated states at war with the rest. Anxious, above all, to avert



this state of things, yet, at the same time, impressed with the deepest conviction of my own duty, to take care that the laws shall be executed, and the faith of the nation preserved, I have used, of the means intrusted to the executive for that purpose, only those which, without resorting to military force, may vindicate the sanctity of the law, by the ordinary agency of the judicial tribunals.

It ought not, however, to be disguised, that the act of the legislature of Georgia, under the construction given to it by the governor of that state, and the surveys made, or attempted, by his authority, beyond the boundary secured by the treaty of Washington, of April last, to the Creek Indians, are in direct violation of the supreme law of this land, set forth in a treaty, which has received all the sanctions provided by the constitution, which we have been sworn to support and maintain.

Happily distributed as the sovereign powers of the people of this union have been, between their general and state governments, their history has already too often presented collisions between these divided authorities, with regard to the extent of their respective powers. No instance, however, has hitherto occurred, in which this collision has been urged into a conflict of actual force. No other case is known to have happened, in which

the application of military force by the government of the union has been prescribed for the enforcement of a law, the violation of which has, within any single state, been prescribed by a legislative act of the state. In the present instance, it is my duty to say, that, if the legislative and executive authorities of the state of Georgia, should persevere in acts of encroachment upon the territories secured by a solemn treaty to the Indians, and the laws of the union remain unaltered, a superadded obligation, even higher than that of human authority, will compel the executive of the United States to enforce the laws, and fulfil the duties of the nation, by all the force committed for that purpose to his charge. That the arm of military force will be resorted to only in the event of the failure of all other expedients provided by the laws, a pledge has been given, by the forbearance to employ it at this time. It is submitted to the wisdom of congress, to determine, whether any further act of legislation may be necessary or expedient, to meet the emergency which these transactions may produce.

JOHN QUINCY ADAMS.

Upon the receipt of this message, the greatest excitement was manifested in both branches of the congress. In the senate, Mr. Berrien, of Georgia, moved that the message

be referred to a select committee, on the ground; that inasmuch as the president of the United States had threatened to resort to military force, before any judicial decision was obtained upon the question in dispute, it became a question of great importance to all the members of the confederacy. That it was unheard of, to thus prejudice the rights of one of the sovereign states; and that the conduct of the executive had been hasty and overbearing towards Georgia. He said, that he felt himself called upon to vindicate the character of the state, which he represented. If this measure was calculated to disturb the harmony of the union, he requested the senate to bear witness, that Georgia was not the actor on this occasion. She had not revived the controversy. She only acted under a state law, passed at a time when, by treaty, she had acquired undisputed dominion over all the lands within her chartered limits, in conformity with the principles avowed by those senators, who gave their sanction to the instrument revoking the treaty alluded to. No one questioned, at that time, that Georgia had an indisputable, vested interest in the lands conveyed by that treaty, which could not be touched without her consent.

These sentiments, he asserted, then prevailed in the senate, and he inquired, why this resort to

arms was threatened. Had Georgia refused to submit to civil authority? She had not. What motive then, he asked, had caused this subject to be obtruded upon the harmony of our councils? He agreed, that it was a firebrand, but Georgia had not thrown it.

While Mr. Berrien thus warmly attacked the conduct of the general government, no senator seemed to be prepared to answer his arguments, or refute his statements, and a committee, consisting of Messrs. Benton, Berrien, Van Buren, Smith of South Carolina, and Harrison, was appointed to take the subject into consideration. This committee, on the first of March, made a report, setting forth the grounds taken by the president, as well as those assumed by the governor of Georgia, with an elaborate vindication of the conduct of that state in the controversy, and an implied censure upon the president, for threatening to employ the military to enforce the laws of the Union. It concluded with a resolution, requesting the executive to continue his exertions, to obtain from the Creeks a relinquishment of all their lands within the limits of Georgia. This report, being brought in just before the adjournment of congress, was not called up for consideration, and laid on the table without any decision upon its principles and statements.

In the house of representatives

the message met with a different, only resisted in the case of reception. Georgia.

Mr. Forsyth, of Georgia, attempted, upon a motion to refer the message to a committee of the whole, to vindicate the conduct of the governor of Georgia. He said, that he rejoiced that the circumstances of the case were presented to the house, in such a manner, as to compel it to render a solemn decision between the national government, and the state of Georgia. He could not, however, consent to sit and hear quietly, charges brought forward in the message against the authorities of the state, which he represented. They had done nothing, which violated the constitution of the country. This he would say in the face of the executive. (Here Mr. F. was called to order, but the speaker decided, that he was in order.) He then proceeded to say, that he rejoiced, that the executive had not conceived it to be his duty to make his appeal at this time to military force; and denied the constitutional authority to employ such force, either in the present case, or any other, which had occurred within the state of Georgia.

The governor had acted under the authority of the state, and had exercised only the discretionary power invested in him by the laws. He had acted under rights, exercised in every part of the union, and

Mr. Powell inquired, whether he (Mr. F.) anticipated any legislation in reference to the message just received.

Mr. Forsyth replied, that he did not, and insisted that no legislation on the subject, could be necessary or proper. He considered the executive, as asking the opinion of the house in relation to certain rights of the state of Georgia.

If it should be in favour of those rights, no other act than a declaration of such opinion, need ensue. Very false impressions were entertained in this matter. It was only for the United States to will, and her will would be obeyed. There was nothing to be apprehended, if the general government did not interfere, and, under the semblance of protection, stimulate the Indians to resistance of the state authorities. All the difficulties in this business, had been caused by this interference. Those unfortunate beings would have long since done their duty to the country and to themselves, had it not been for the base interference of infamous white men, exercising an influence over them. He need only refer to the base and infamous conduct of those, who came to this city last winter with the Indians, under the pretence of protecting them. There was no necessity of farther

legislation on the subject. If the rights of the Indians had been violated, existing laws provided an ample remedy, and the courts of the United States were open to them.

To this extraordinary speech, extraordinary both in sentiment, and for the feeling manifested towards the general government, Mr. Webster made the following reply :

He was not much concerned what course this communication should take ; but he was not willing that it should be supposed, either here or elsewhere, that there existed an entire unanimity of opinion with the gentleman from Georgia on this subject. That gentleman must know, that there were two sides to the question between the United States and Georgia ; and he would tell him that there existed two opinions also, not only on that question, but on the conduct which that gentleman had designated as " base and infamous."

The gentleman had told the house, that nothing had prevented every thing from going right in Georgia, but the interference of the general government ; and he had denounced such interference, saying, in effect, " hands off for the present ; leave the Indians to the remedy of the courts."

But he would inform that gentleman, that if there were rights of the Indians which the United States were bound to protect, that there were those in that house, and in

the country, who would take their part. If we have bound ourselves by any treaty to do certain things, we must fulfil such obligations. High words will not terrify us—loud declamation will not deter us, from the discharge of that duty. For myself, said Mr. W. the right of the parties in this question shall be fully and fairly examined, and none of them with more calmness than the rights of Georgia. In my own course in this matter, I shall not be dictated to by any state, or the representative of any state, or this floor. I shall not be frightened from my purpose: nor will I suffer harsh language to produce any reaction on my mind. I will examine with great and equal care, all the rights of both parties. Occasion had been taken, on the mere question of reference of this communication, he would not say for argument ; but for the assumption of a position, as a matter perfectly plain and indisputable, that the government had been all in the wrong in this question, and Georgia all in the right. For his own part, he said, he did not care, whether the communication did or did not go to a committee of the whole on the state of the union, nor how soon it went there, and was there taken up for discussion. When he went into that committee, he should go there, not in a spirit of controversy nor yet in a spirit of submission but in a spirit of inquiry, calmly

and deliberately to examine the circumstances of the case, and to investigate the rights of all parties concerned. He had made these few remarks, to give the gentleman from Georgia to understand, that it was not by bold denunciation, nor by bold assumption, that the members of this house are to be influenced in their decision on high public concerns.

Mr. FORSYTH said, that he had not, to his knowledge, denounced the house, or any gentleman in it; nor had he attempted to dictate to the house, or to any member of it. It was, however, perfectly natural, that a representative from Georgia, the government of which was here arraigned, should have, and, having, should indulge, some feeling on the subject. The honourable member from Massachusetts, indeed, might very well be calm and unmoved; he did not reside near the scene of action; the people of his state was far removed, and had no reason to dread the bayonet at their throats. It was quite natural, that that gentleman should be calm and dispassionate, and prepared to take a cool and composed view of this subject; but the representatives from Georgia did not feel so. We feel very differently, said Mr. F., and when I feel, I will not attempt to conceal my feeling. Our rights have been violated, and their violation has been made known to this house; and our appeal has not been

regarded. All we ask is, that the case should have a fair investigation; and it is even possible—possible, but not probable—that the gentleman from Massachusetts, after such an investigation, might feel with us.

The gentleman from Massachusetts says he will investigate the subject: which implies that he has not yet done so; but he (Mr. F.) had examined it thoroughly. He was prepared to go into the discussion of it in committee of the whole; to do so dispassionately, if it were necessary, (for they, too, could suppress their feelings when circumstances required,) but if not, they should and would express their feelings, notwithstanding it might draw down upon them the very dispassionate censure of the gentleman from Massachusetts.

Mr. HALE expressed a hope, that the communication would go to a committee of the whole. When a subject of this kind was touched, it vibrated on other chords than those of the parties immediately concerned. Several of the states had already exercised their rights over the Indians within their chartered limits, and Mississippi intended shortly to follow the example; and he could assure the gentleman from Georgia that, if the bayonets of the general government should on this account be turned against any of the states, it would speedily find its friends rallying around it.

All the states, situated as Georgia was, claimed the sovereignty over the whole extent of their chartered limits. They had forborne as long as they could; and the future destinies of the Indians, their future location and civilization, or their final extinction, must soon be decided on. Three great questions were involved: 1st, the powers of the general government within the limits of a state; 2d, the power of the states to legislate within their own chartered limits; and 3dly, the power of the states over the Indian tribes. His state might, ere this time, have extended its legislation over the Indians, within its territory. If it had no right to do so, this house ought at once to say so. He hoped there would be no occasion to resort to military force. Georgia certainly had a right to assert what she believed to be her rights, and to speak her sentiments upon this floor. He hoped the whole matter would be heard and settled: for, should congress adjourn without settling it, consequences were likely to ensue, of great interest to many of the states.

Mr. WEBSTER rose to make one remark, in reply to the gentleman from Mississippi. That gentleman, he said, had reason to know that he (Mr. W.) was disposed to use all proper authority of the United States to extinguish Indian titles to lands within the states. But he

must tell the gentleman from Mississippi, that the states would act on their own responsibility, and at their own peril, if they undertake to extend their legislation to lands, where the Indian title has not been extinguished. If any such measure was contemplated in the state which the gentleman represented, he hoped that gentleman would lose no time, in warning his friends against making any such attempt. The relation which the United States held to these tribes, of parental guardianship over these remnants of mighty nations, now no more, was a very delicate relation. Its general character was that of protection, and, while every facility was given to the extinguishment of Indian title, let not that circumstance be so far presumed on, as to induce the states to exercise authority within the Indian limits. Any such course would be attempted at their own responsibility. He concluded, by saying that he was ready to do all that could be done, to extinguish the Indian title in the states, and particularly in the states east of the Mississippi. But this disposition, common to all parts of the country, should not be so far presumed upon, as that any state should undertake on its own mere motion, to exercise an authority over the lands to which the Indian title is guaranteed by treaties.

Mr. BARCLAY said, that he had

not risen for the purpose of entering on the general subject, but merely to suggest to the gentleman from Georgia, whether it would not be better to refer the communication to one of the committees of the house. Before any thing like a correct decision could be had, many facts must be inquired into; and it would facilitate the debate and the decision, if these facts should previously be ascertained and reported to the house by one of its committees.

Mr. WRIGHT said, that, with the very imperfect understanding which the house now possessed of the paper to be referred, they were not in circumstances to decide whether the case was such as required legislation or not. Even the present discussion he considered premature; and, with a view that every member might obtain a right understanding of what the communication was, he moved to lay it on the table, and to print it.

This motion prevailed; and it was laid upon the table, accordingly.

On the 8th of February, a second message was received from the president, transmitting to congress a letter from governor Troup to the president complaining, that the surveyors of Georgia had suffered frequent interruption from the Creeks; and stating, that he had reason to believe, that the Uni-

ted States agent was the instigator of the Indians, and requesting reparation for such wrongs.

The next day, Mr. Everett moved, that this message be referred to the judiciary committee, and Mr. Forsyth moved a reference to a committee of the whole house.

Mr. Wickliffe objected to any reference, but thought that the question belonged peculiarly to the consideration of the senate, and was in favour of waiting for the decision of that body. With that view, he should be in favour of laying the message on the table.

A discussion hereupon ensued, in which Messrs. Buchanan and Hamilton were in favour of laying the message on the table, on the ground that the subject was before the judiciary, and also before the senate, and that it was unnecessary for the house to act, under those circumstances.

Mr. Hale rose, not for the purpose of entering into the discussion, but to propound a few interrogatories to the gentleman from Massachusetts, concerning what fell from him a few days since.

Being, as he was, the sole representative of a sovereign state, he had heard with pain, a threat proclaimed to him, and through him to the state which he represented; that, if that state presumed to legislate on a particular subject, over which, according to his opinion, it had abso-

lute control, it would do so, on its own responsibility and at its peril. He wished to ask that gentleman; whether such a threat would not apply equally well to all other acts of sovereign legislation, by any of the states? Was this language designed to awe any state of the confederacy? Whence was the gentleman's authority for such a threat derived? Was it from his power or influence in this house, or had he uttered it as the organ of the administration. He had no wish to produce excitement, and would be the last to light up the torch of civil war. But his state contended for its authority, to extend its power of legislation throughout its chartered limits, as well over the Indians, as over the white population. If she was restrained from doing this, she ceased to be a state."

In making these remarks, Mr. Haile appeared to forget, that the state which he represented, had no *chartered* limits. Its limits were defined by an act of congress, which erected it into a state, from out of a portion of the public territory; and the constitution of the state expressly disclaimed, on the part of the people, all right and title to the unappropriated land within the said limits.

Mr. Webster observed in reply, that when any member of the house asked of him an explanation of any thing personal as to himself, he was ready to make it; or

if any explanation was wanted as to any facts; or any arguments; or a clearer statement of any argument advanced by him, he was ready to comply with the wishes of any gentleman.

For all other purposes could not submit to be catechized; and for that reason, he should give no answer to some of the queries proposed by the gentleman from Mississippi.

He went on to say, that he had uttered no threats; on the contrary, the tone of menace seemed to come from the other side of the question. What was this whole matter? Was it offensive to sovereign states, for him to say that they acted in any particular matter on their own responsibility, and at their peril. He should not take back a syllable of what he had said, either in manner or in substance.

The lands over which these states claim to exercise exclusive jurisdiction, have never been subject to state laws since the foundation of the government. The control over them had always been with congress. We enact all general regulations concerning the Indian tribes, who inhabit them. Their municipal concerns have hitherto been managed by themselves. They maintain their own peace, and their own laws.

It was now said, that the states of Alabama and Mississippi either



had extended, or intended shortly to extend, their legislation to the lands and persons of these Indians. They will therein do what has never been done or attempted before ; and what has, at least, a very doubtful aspect ; and, when I said that they must do this, on their responsibility, and at their peril, I meant no more, than that they would venture on the exercise of power, which they might be found not to possess. Does the gentleman call this language minatory, and come here a week afterwards, with a list of questions which he wishes to propound to me as to what I meant by the observations I made ? I tell that gentleman, that I mean what I say. I am told that the proposed measure will be the act of a sovereign state. Be it so. Is it not a possible thing, that sovereign states, may sometimes act in a manner, which violates the constitution ! Are not conflicting laws of a state, and of the United States, to be discussed and settled for or against a state, before the judicial tribunal ? If I, and my learned friends were in another part of this capitol, we can speak of these things without offence, and the judgment comes upon them, without offence. There, at least, it is admitted to be very possible, that a sovereign state may be in the wrong. •

It is not my intention now to discuss the general question, or to go

into an extended reply to the observations which have been made upon it ; but I am told by the honourable gentleman from Georgia, (Mr. Forsyth,) that the courts are open, and that this question may be settled by a judicial tribunal. This might have been a remarkably good argument to address to the state of Georgia, before she took the remedy into her own hands. It is a new mode of settling a constitutional question, to seize the lands in dispute, and send out the Hancock troop of horse to defend the possession of them. But, at this stage of the affair, that appeal to the courts comes with rather an awkward grace. When a man advances a claim against the lands of his neighbour, he makes his appeal to the law ; but, when he forcibly enters upon possession of them, he makes his appeal to something different from the law.

The question, on laying the message upon the table, was decided in the negative—84 to 72.

Mr. FORSYTH thought, that there was no occasion for a reference to a small committee. The facts had long been in possession of the house ; and in a committee of the whole, there could be a fair discussion. Speech could be met by speech, and if quoted as argument, one might be fairly set in opposition to another.

The honourable gentleman from Massachusetts, has thought proper

to allude, again, to the menacing tone which he alleges to have been used in the discussion of this message the other day. I deny that there was any intention, on my part, to menace either this house or the administration. The gentleman will pardon me for saying, that his remark, the other day, were calculated to excite against us a prejudice which ought not to have place in this house—to rouse up all those jealous and angry feelings which are ever produced by idle menaces. Great God! Is there any one who can suppose that any member of this house, or that the state of Georgia, desires to menace the union! There is no portion of the union, in which a disturbance of the peace of the union would be more deeply regretted, than in that state.

The gentleman from Massachusetts, professing to have formed no judgment, remarked, that the menace came from the other side, referring to what fell from me. Sir, I speak for Georgia. Is he against Georgia? Or does he mean, that he stands here for the administration, and that I am its opponent? If I am wrong in having formed an opinion, the gentleman is far gone towards a similar error. I regret it, because I know the weight of his character in this hall, the vigour of his mind, and the extent of his resources, and the great and commanding influence which

he of late too often exercises here. I beg leave to remark to this house, that there was nothing which I had the honour to suggest the other day, that can be considered menacing, or which was calculated to wound the feelings of any body. A menace may be thrown out, I beg leave further to remark, in a very mild tone and manner.

Nothing which I said, on the occasion referred to, could be more properly construed into a menace, than what the honourable gentleman himself said; and which I do not now understand him as intending to retract. The gentleman said, if any state extended her jurisdiction over Indian lands, she did so at her own peril. Peril of what? Of expulsion from the union? Of a declaration of war? Or of being overpowered by the combined forces of her sister states? Or of that mild resort to the judicial tribunal, the result of which is always safe! It was strange language which the gentleman used, however interpreted. If, seeking for the meaning of the terms which he used, we apply to the subject which we were investigating, it would seem to be the opinion of the gentleman, that military power might be used by the chief magistrate for the purpose of compelling a state—not the individuals of a state—but a state, through her sovereignty, to perform her duties to this union. I cannot suppose, how-

over, that the gentleman meant to take this broad ground. I rather suppose he meant to refer to a resort to the judicial tribunal, to control the movements of the state governments. There is no peril in all this : it is done every day ; and may be done to the end of time, or until the military authority is called in to enforce the decrees of the Court.

Mr. LETCHER said, that if he had the same confidence in the fairness of any cause which he advocated ; that the gentleman from Georgia professed to have in relation to the claims of that state, he should not object to a reference to any tribunal of any honourable men. He should fear no investigation. He thought, however, that the mass of business before the judiciary committee, would prevent them from attending to it, and that it ought to be settled at the present session. The gentleman says, leave the matter to the law ; let it take its course before the judicial tribunals. But, supposing that in the mean while blood should be shed ; will the responsibility rest on this house ! When accused by our constituents of being in part accessory to the shedding of the blood of our countrymen, what apology, asked Mr. L., can we offer, if while this message was sleeping in this house, unacted on, murders should be committed by the Indians against the Georgians,

or by the Georgians against the Indians ! We should never forgive ourselves, or be forgiven by our country.

A discussion ensued between Mr. Webster and Mr. Forsyth, upon the merits of the question between the United States and Georgia, and the question on reference to a committee of the whole was then negatived 92 to 81. The motion to refer the message to the judiciary committee was also negatived 95 to 81. The motion for a select committee then prevailed ; and Mr. Thompson, of Georgia, moved that the committee be appointed by ballots. This motion was negatived 104 to 90 ; and Messrs. Everett, Powell, Cocke, Drayton, Whittlesey, Lawrence, and Buckner, were appointed on the committee by the speaker.

On the 3d of March this committee brought in a report, stating that although the European nations, which appropriated this continent, had considered themselves as possessing a right to exclude other civilized nations from certain limits ; they, at least the British colonists, had regarded the Indians as independent nations, over whom they had not undertaken to exercise legislation, and with whom they had been in the habit of concluding conventions, for the purchase of territory, and settlement of boundary lines :—that, upon the revolution, a question arose whe-

ther these rights of the British government of pre-emption, of Indian lands, were vested in the general government, or in the individual states. These questions were finally settled by compromise; but congress, in accepting the cessions of western lands to which the Indian title was not extinguished, would not admit that the confederacy had not, independent of such cessions, a good title to the unoccupied lands.

After many difficulties with Georgia, on the subject of the Indian lands, a compromise was made in 1802, by which a boundary line was given to the state of Georgia, the United States relinquishing her claim to all the territory east of the line, and Georgia relinquishing her claim to all the territory west of the line. The United States also agreed to pay certain sums of money, and to extinguish, "as soon as it could be peaceably done upon reasonable terms," the Indian title to all the land east of the line. In pursuance of this agreement, about two-thirds of the Indian lands within the state of Georgia, were purchased at different times by the United States, for the benefit of the State, before 1825.

At the beginning of that year, another attempt was made to procure an additional cession, but the council of the Creek nation refused to sanction any cession, and broke up after having given that

answer. The commissioners, however, went on, and concluded a treaty with a portion of the chiefs, by which all the Creek lands, both in Alabama and Georgia, were ceded to the United States. This treaty was disowned by the Creeks, who executed some of the chiefs concluding it, and banished the residue. The government of the United States, finding it could not be executed without force, annulled that treaty, and concluded another upon more favourable terms for the Indians, which was ratified by a large majority of the senate, and approved by the whole house, excepting the members from Georgia and Alabama. By this treaty, it was intended to cede all the Creek lands within Georgia; but as the boundary line of that state had never been run, it was uncertain whether that intention had been carried into effect; and it was believed that about 200,000 acres still belonged to the Creeks, within the ex parte line claimed by Georgia. To this land, Georgia set up a claim under the treaty which had been annulled, and insisted on entering upon it without regard to the subsequent treaty. The Creeks, under these circumstances, claimed the protection of the United States, and demanded to be left unmolested, upon the lands guaranteed to them by the federal government. The committee thought, that they were entitled to such protection:

and inasmuch as the exclusive right of treating with the Indians, and making war upon them, and managing Indian affairs, was granted to the United States; the committee recommended the house to resolve, that it is expedient to procure a cession of the Indian lands in the state of Georgia; and that, until such a cession is procured, the law of the land, as set forth in the treaty of Washington, ought to be maintained by all necessary, constitutional, and legal means.

When the governor of Georgia found by the decisive measures of the president, that he was determined to maintain the authority vested in the executive, he transmitted a letter to the Georgia delegation at Washington, stating his willingness to submit to the determination of congress, and dis-

claiming any intention of resorting to force, except the sovereignty of the state came into collision with the United States.

In the mean time, the president continued his exertions to procure a cession of the Creek lands still remaining within the state, and on the 15th of November, 1827, succeeded in procuring a cession of the remaining strip of land for the sum of \$12,501. This terminated the dispute so far as the Creek territory was concerned, in a manner highly creditable to the firmness and discretion of the general government.

Another subject of controversy still remains in the Cherokee lands, which cannot be so speedily adjusted, while the councils of Georgia are so much under the influence of feeling and temper.

## CHAPTER V.

*Depressed condition of Woollen Manufactures—Tariff of 1824—Alteration of British Tariff—Frauds upon the Revenue—Mr. Mallory's Report and Bill—Discussion in House—Proceedings in Senate—Harrisburg Convention—Division of Opinion.*

Among the leading measures which occupied the attention of congress, at this session, was that for the encouragement of the growth and manufacture of wool. The principles on which this bill was discussed, differing somewhat from those on which, in general, propositions for protecting duties are supported or opposed, it may be necessary to enter somewhat into detail upon the subject.

There is undoubtedly a school of political economists, who maintain, that the policy of promoting manufactures at home, by duties laid on the importation of foreign articles, is, without exception, a mistaken and false policy, leading, among other evils, to an absolute waste of property to the amount of the protecting duty. There is an opposite class, who, without regard to the condition of the country, and its aptitude for particular branches of industry, is disposed to force the

domestic production of every species of fabric, by prohibitory duties on the rival fabric, as imported from abroad. In the popular discussions of the subject, the first class of economists is apt to enforce its doctrines, by showing the oppressiveness of the burdens laid upon consumption, by carrying into operation the views of the second class : while the patrons of an indiscriminate system of prohibitory duties, give a plausibility to their scheme, by dwelling on the salutary effects which have resulted from protecting duties, judiciously laid on the importation of articles either essential to the national welfare and strength, or for the manufacture of which the country is fully ripe.

The truth evidently here lies partly with each, and wholly with neither. It is not true, that the policy of protecting domestic industry, by duties on the product of fo-

reign industry, is, *without* exception, a false or mistaken policy. Instances, can be shown, (and the navigation laws of England and America are satisfactory ones,) in which protecting and even prohibitory duties, have not only been most signally productive of beneficial effects, but have been approved by the standard authorities of what is called the liberal school. Adam Smith pronounces the navigation law of England one of the wisest and best in the statute book. On the other hand, nothing is more certain, than that to attempt to force the industry of the country into a direction for which it is not nature, or which is not sufficiently favoured by external physical circumstances, would be followed by a corresponding waste of the public wealth. The so often quoted example of Adam Smith, in reference to the growth of wine in Scotland, is a sufficient illustration of this proposition. Although the arguments often heard in support of domestic manufactures, would seem to go the length of that example; yet, we presume no statesman or legislature would ever be found willing to follow up such an argument, by positive enactment.

The question, then, is one of time and measure, considered even in its principles. It is still more so, when we take into view the distributive justice, which is due alike to the several branches of indus-

try in the community; and the protection which the state owes to the industry of its citizens, against the effect of measures of foreign governments, expressly aimed at its subversion. Under a government, when the policy of protecting duties has already been adopted, from whatever consideration, and extensively applied to some branches of industry, the other great interests of the country have a right to expect an equal favour. And under whatever state of things specific foreign legislation is so applied, as to disturb and neutralize the operation of the laws, passed for the proportionate encouragement of the various pursuits of the citizens of the country, it becomes the duty of the government, on principles paramount to those of any school of political economy, to counteract the interference.

Most of the principles here stated, with the exception perhaps of the last, were brought into review, when the tariff of duties on imports underwent its last general revision in 1824. On that occasion, some of the members of congress, who took the lead in enforcing the sound doctrines of the liberal school, against what they thought an extravagant extension of the protective policy, admitted the expediency, and recommended the provision of some further encouragement of the woollen manufacture on the ground

that this was an article too essential, to be derived solely from a foreign source of supply; that it was one for which the country was not merely mature, but possessed peculiar capacity; and that it was entitled to a greater share of favour than it had yet received, when compared with the manufactures of cotton, iron, and some other articles. It is true, however, that opinions on these points were not unanimous, even among the parties interested. The manufacturers feared that an increased duty on foreign cloth would be accompanied (and its beneficial effects to them counterbalanced) by an increased duty on wool. The capitalists, who had embarked in the business, with extensive resources and improved machinery, were inclined to ascribe the languishing condition of the manufacture to the imperfect manner in which it had been hitherto attempted; and feared that the effect of an increased protection would be a destructive domestic competition. From these and other causes, the efforts of those engaged in this manufacture to obtain a substantial increase of protecting duties were less united and earnest, than might otherwise have been expected; and in the final passage of the bill, a smaller increase of duty on foreign cloth was provided for, than was thought requisite by the zealous friends of the measure: and the effect of this

was seriously counterbalanced by the increase of the duty on imported wool. The duty on imported woollens, the cost of which exceeded  $33\frac{1}{2}$  cents per yard, was raised from 25 to  $33\frac{1}{2}$  per cent.; while the duty on imported wool was increased from 15 per cent. to a progressively increasing duty of 30 per cent. on all wool costing over 10 cents per pound. On wool under that price, the old duty of 15 per cent. remained.

It will be immediately seen, that this increase in the duty on wool, caused in effect a reduction of at least five per cent. in the new duty on cloth, which could not in the united effect of the two duties be regarded as amounting to more than  $28\frac{1}{2}$  per cent. So that the utmost advantage gained by the woollen manufacturer, in the revision of the tariff was an increase of  $3\frac{1}{2}$  per cent. in the duty on the rival foreign article.

But in addition to this circumstance, there were several ways, in which the American manufacturer lost the advantage of any increased protection, which he might have enjoyed, in the undisturbed operation of the new law.

Contemporaneously with the revision of the American tariff in 1824, a revision took place of the English tariff, avowedly with the object of enabling the British manufacturers to command the foreign, and specifically the American market of low priced cloths. In this



revision a reduction was effected in the articles of foreign wool, dye stuffs, oil, &c. amounting, at the lowest computation to  $16\frac{1}{2}$  per cent. on the value of the article manufactured, accompanied with a remark on the part of Mr. Huskisson, while proposing the last reduction of a half penny per pound in the duty on low priced wool, that even this reduction would be a "considerable relief" to the manufacturers against "foreign competition." Applying the effect of this reduction to the duty laid by congress in 1824, on foreign woollens, it effected, of course, a further reduction of that duty from  $28\frac{1}{2}$  to  $11\frac{1}{2}$  per cent. a lower rate than that at which it stood *before* the tariff of 1816, when the permanent duty was  $12\frac{1}{2}$  per cent. on woollens, with a free importation of foreign wool.

In addition to the effects of this act of foreign legislation, the American manufacturer had to struggle with the arts and frauds of their agents. \* It is well known, that scarce any article of manufacture is susceptible of so wide a gradation in value and price, in proportion to the different degree of *finish* applied to the same substantial basis, as cloths. On this circumstance was founded a fraud, (to what extent practised is not of course a matter ascertained,) which consisted in importing cloths in an unfinished state, capable of being finished into much better fabrics, and consequently

paying a much lower duty, than would otherwise have been levied upon them.

Lastly, it was alleged that very extensive importations of foreign cloths were made by the agents (themselves foreigners) of the manufacturers, which cloths were notoriously charged at lower prices than they could be purchased at in the foreign market. Whether this low estimation in the invoices were altogether fraudulent, or whether the foreign importer, being himself the manufacturer, merely intended to sell the surplus stock to no profit, and even to loss, for the sake of relieving the domestic market from a glut, cannot in all cases be ascertained. Both causes no doubt conspired to the inundation of the American market with goods, not merely cheaper than they could be manufactured here: but cheaper than they could be imported, in open course of trade, by the American merchant.

Such was the state of things, which was laid before congress, at their last session, in very numerous memorials, from almost every part of the country interested in the growth or the manufacture of wool. These memorials were, in the house of representatives, referred to the committee on manufactures, of which Mr. Mallory, of Vermont, was chairman.

A bill was reported on the 15th of January, from this committee.

of which the following were substantially the features :—

1. That from and after the first of August, 1827, all manufactures of wool imported into the United States, (except worsted stuff goods, and blankets,) whose value shall not exceed forty cents the square yard, at the place whence imported, shall be deemed to have cost the forty cents, and shall be charged with the present duty accordingly. If exceeding in cost forty cents, and not exceeding two dollars and fifty cents the square yard, they shall be deemed to have cost the latter sum, and shall be charged duty accordingly. If exceeding two dollars and fifty cents in cost, and not exceeding four dollars per square yard, shall be deemed to have cost the latter sum, and shall be charged accordingly.

2. That all unmanufactured wool now chargeable with thirty per cent. duty ad valorem, shall, from and after the first of June, 1828, be charged with thirty-five per cent. duty; and after the first of June, 1829, be charged with forty per cent. duty. If the actual value of such wool at the place whence imported shall exceed ten, and not exceed forty cents per pound, it shall be deemed to have cost forty cents, and be charged accordingly, as above stated.

The third section provided for a duty on wool imported on the skin.

Such in substance were the provisions of the bill.

On the 17th of January, the house resolved itself into committee of the whole on the state of the union, by a vote of 80 to 50, to take up this bill. The debate was opened by Mr. Mallory, in a detailed exposition of the grounds, on which the bill had been prepared. He stated, from the best estimate he had been able to form, that the capital invested in the woollen manufacture amounted to forty millions of dollars, and that sixty thousand individuals were actually employed in it. With respect to the number of sheep, he observed that it had been assumed to be fifteen millions in the United States. In 1825, it was ascertained to be 3,496,000 in the state of New-York. If the number had gone on increasing, it could not, at the present time, be less than 4,000,000 in that state; and calculating on this ratio, must be at least 14,000,000 in the union. Of these Mr. M. calculated, that at least ten millions of sheep were kept, to supply the wool called for by the manufacturers. These ten millions of sheep, at a low estimate, were worth two dollars each, giving twenty millions of dollars as the value of the flocks dependent on the manufacture. The annual amount of wool required by the manufacturers, was probably not less than 40,000,000 lbs. Taking it to be but 30,000,000 lbs. its value at thirty-five cents per lb. would be over \$10,000,000. The quantity of

land required for the support of this number of sheep could not be estimated at less than an acre for every four, nor valued at a lower rate than eight dollars per acre. This would give twenty millions of dollars as the value of the land, devoted to the raising of the sheep required for the supply of our manufactures. By adding the three last items together, Mr. Mallary arrived at \$40,000,000 as the gross amount of the agricultural capital, employed in connexion with the woollen manufacture. It may be observed, however, (if Mr. M. is correctly reported,) that the second of these items cannot properly be taken into an aggregate with the first and third, being not like them of the nature of permanent capital, but the annual yield of the flocks, added to what imported wool is now annually consumed. Had Mr. M. applied, in what we conceive the correct way, the element of ten millions of dollars, (the value of wool annually wrought up,) he would have reached a result showing still more strongly the important extent of our woollen manufactures. ~~Allowing the wool-grower to reimburse the cost and expenses of his flock out of the increase, and regarding the wool as his profit, and taking this at 6 per cent., \$10,000,000 of wool represents a capital of more than \$150,000,000, of which the interest is paid in the purchase of wool.~~ Mr. M. at a

much more moderate computation, assumed the agricultural capital connected immediately with the growth of wool at \$40,000,000 to be added to the same sum directly invested in the manufacture.

Mr. M. then proceeded to estimate the quantity of agricultural produce, required for the support of those employed in manufactures. He stated the consumption of flour imported into New-England, from other parts of the union, at 629,000 barrels per annum, costing, at \$5 50 the barrel, \$3,480,000. The entire export of American flour to all parts of the world, amounted in 1826, to less than 860,000 barrels.

After some remarks, showing the importance of the cotton manufacture, and the prosperity to which it had risen, under the protective system, Mr. M. passed to the operation of manufactures on our intercourse with foreign nations, and showed an annually increasing exportation of domestic fabrics, from \$2,754,000, (the amount in 1821,) to 6,000,000, the amount in 1826.

Having thus shown the importance of the interests involved in the woollen manufacture, Mr. Mallary laid open its present condition, which he stated to be that of extreme languor and depression, resulting in general from the urgent competition of the English manufacturer, operating in the various ways which were specified in the commencement of this chapter.

particularly by an evasion of the duties by foreign manufacturers, importing on their own account; and the importation of unfinished cloths. Mr. Mallary dwelt on the pernicious effects of a fluctuation in the market; and the policy of the foreign manufacturer to discharge his goods into our market, at some loss, rather than glut the market at home.

After some general considerations, Mr. M. discussed the objections usually urged against protective duties, as leading to monopoly; considered the argument, which is drawn from the alleged change of policy in this respect, particularly the reduction of duty on silks imported into that country, and inferred, from a survey of this and other parts of the British policy, that the British government had given no indication of a design to abandon any of the great interests of the country, to an effectual foreign competition.

Mr. Mallary then entered into some detail on the practical operations of the bill. He showed that on cloths belonging to the lowest minimum, and costing 30 cents the running yard, an addition of only  $3\frac{1}{2}$  cents duty per yard would take place. On flannels at 25 cents per running yard, an additional duty of  $2\frac{1}{2}$  per cent. the square yard. The principal burden of the new duty would be felt about the second minimum, (\$2 50,) and the more heav-

ily, the lower the price of goods falling under this minimum. The capacity to manufacture these goods was, however, almost indefinite; the machinery now prepared, and idle, would immediately be put in action, and the price (as in the case of cottons) brought down to the lowest rate of profit.

The foregoing can be regarded, of course, but as a brief abstract of Mr. Mallary's extended argument. He was followed by Mr. Cambreleng, with a motion, that the committee should rise, (not, as he observed, because he proposed to address them the next day on the subject,) but with a hope, that the house would refuse to again resolve itself into a committee on this subject, for two or three weeks, or as he should prefer, altogether. He stated, that he had not had time (so recently was the bill introduced) to examine into the nature and effects of the bill; that it would impose an oppressive burden on the entire population of the country, except the sixty or seventy thousand persons stated to be employed in the manufacture, and that the burden would fall heaviest on the poorest class of the community. He expressed his belief, that it was no time to tamper with measures, affecting the revenue, which was declining; that it would be found impossible to pass this bill, without acting on innumerable amendments which would be offered, and that

the manufacturers were no worse off than those engaged in most other branches of business. Depression was general. If the house did seriously take up the bill, he was prepared to advocate the principles of free trade, which he had always supported; but he hoped, at all events, time would be given to reflect on a measure, that went to prohibit the importation of woollens, generally. The committee then rose.

On the following day, (18th of January,) Mr. Buchanan, with a view, as he stated, to ascertain the sense of the house, whether it were possible to act finally on the subject, during this session, (he believed himself it was not possible,) made a motion, to discharge the committee from the further consideration of the subject. He accompanied the motion, with the remark, that though friendly to the policy of protective duties, he believed that those provided by the bill were too much of a prohibitory nature; and that other branches of industry, such as those connected with the raising of hemp and grain, stood equally in need of farther protection. He avowed his purpose, should this motion prevail, of following it up by another, to lay the bill on the table.

A short debate arose on this motion. Messrs. Mercer, Archer and Wickliffe, expressed their disapprobation of the bill: and Messrs.

Mallory, Burges, Bartlett, and Dwight, spoke in its support. Mr. Dwight was proceeding in his remarks, when the attention of the house was attracted by the progress of the flames at Alexandria, and a motion for adjournment prevailed.

The debate on Mr. Buchanan's motion was not resumed, till the 20th. It was then taken up, and supported in a short speech, by the mover, who was followed by Mr. Hamilton, on the same side, and particularly on the ground, that to press the measure, at the present time, would be to take the house and the country by surprise. Mr. Hamilton objected to the measure as unconstitutional, and deprecated it as likely to produce an indignant feeling, particularly in those portions of the country, which would bear the burden, without reaping any benefit from it.

Mr. Burges did not regard the bill as either complicated in its nature, or as one that ought to awaken unkind feeling; neither was it brought by surprise into consideration. The commercial cities had had ample time to remonstrate—but he did not believe the bill was hostile to commerce.

Mr. Stevenson, of Virginia, supported the motion, particularly on the ground, that it was impossible for the house to come to a decision this session. He strongly disapproved the provisions of the bill.

Even the agitation of it would lead to ruinous speculations. Mr. Stevenson of Pennsylvania, a member of the committee of manufactures, could not support the motion of his colleague. He thought a measure of relief required by the woollen manufacturers, but regarded the minimums as too high. He wished the subject, however, to be discussed in committee of the whole, where an equitable adjustment might be devised.

Mr. McLane was opposed to discharging the committee. He was, as he ever had been, friendly to the tariff policy. Though not in favour of all the features of the bill, as was reported, he was in favour of modifying and improving it. He did not think, the reasons urged for postponing its consideration were adequate. That it will produce excitement, (which in his opinion it ought not to do,) would be a reason against considering it, at any other time, as well as this. If ever to be discussed, therefore, it might as well be done now. That other interests were not embraced, was with him a recommendation. He deprecated legislation by compromise. He would take up each interest, on its own merits; and the more simple the question presented, the easier it would be to understand what its real merits were.

Mr. Livingston was in favour of the motion. Though opposed to many of the provisions of the tariff

of 1824, he would not now repeal them. Had the friends of this measure sought only continuance of protection, he would not have refused it; but they go farther, and demand a prohibition.

Mr. Davis, of the committee of manufactures, was surprised at the range, which the discussion had taken. Gentlemen mistook the nature of the bill. Its objects were merely to secure to the manufacturers the benefit of the law of 1824. The object of the committee, in establishing the minimums, was to put it out of the power of the importer, to evade the payment of the duty. He deprecated delay; for while we delay, a great interest is sinking. The house is not taken by surprise; the question has been widely agitated throughout the country the whole season.

The house having refused to adjourn, by a vote of 55 to 81, Mr. Cambreleng pronounced their refusal an evidence of the impetuosity, with which the friends of the bill meant to force it on the house. The house was imposed on, when told the bill was to prevent frauds. Its agitation would lead to pernicious speculations. He would, with all deference to his friend from Delaware, tell him, that he had rather take the bill of 1824, with all its compromises, than take this bill: the whole tariff was nothing to it. It is the most formidable measure, of the kind, ever brought into the

house. He was sorry to hear the sentiments of his friend from Delaware, who ought to know, that before the bill has been a week in committee, there will be twenty propositions of additional objects for increased duties. The instant you go into committee, you convert the whole union into a sea of speculation, and set afloat from twenty to thirty millions of dollars. The gentleman from Delaware says, the city of New York is well informed of what was doing. "For one," said Mr. C. "I have written a number of letters, on the topics of the bill, requesting information, and have got but one in reply."

The debate, which had been arrested at this point by adjournment, was resumed the following day, by Mr. Dwight, in reply to the arguments, on which the discharging of the committee had been recommended, and the bill impugned.

Mr. Haile supported the motion of Mr. Buchanan, on the ground of the pressure of other business.

Mr. Mallary then rose, in compliance with the repeated calls of the opponents of the bill, to state its effects in detail, on the commerce of the country. The whole amount of woollens, imported for consumption in 1826, was about \$8,000,000. Of these, \$5,132,000 only are affected by the bill; the other species of goods being of the kind exempted from its operation: and of those affected, Mr.

Mr., in the result of a detailed examination, (which our limits do not permit us to repeat,) stated, that \$1,600,000 of goods were all, on which the provisions of the bill would operate, to the effect of exclusion, supposing no goods to be imported under fraudulent invoices. The revenue, on these goods, if wholly lost to the treasury, would not exceed \$450,000.

Meantime, the loss would be more than repaid, by the greater amount of consumption of articles, which contribute to the revenue, and which would be imported, in consequence of a superior capacity to purchase and pay for them.

Mr. Mitchell, of South Carolina, urged the taking of a question on the motion to discharge. He was opposed to the bill, not because it laid a burden which the community could not bear, but because it taxed the poor rather than the rich—the low priced, and not the high priced article; and because, by excluding the foreign article, it aims a fatal blow at our navigation.

The debate was still further prolonged between Messrs. Cambreleng and Mallary, when the question was taken on Mr. Buchanan's motion; and it was rejected by a vote of 76 to 112.

Mr. Cambreleng then submitted a paper, which he intended to move as a substitute to the bill, extending the power of the apprai-

sers of imported goods, so as to prevent evasions in the payment of the duties.

The debate was resumed, on the 25th, by Mr. Barney, who offered an amendment, introducing another minimum of \$1 50, between those of 40 cents and \$2 50, which were proposed in the bill as reported. Mr. Mallary was opposed to this amendment. Mr. Dwight did not think it materially changed the bill.

Mr. M'Lane expressed his willingness to enforce the provisions of the law of 1824, but believed the provisions of the bill went much further. He thought the embarrassments of the woollen manufacturers arose from temporary causes, and would pass away. He called upon the chairman of the committee of manufactures, to propose a series of duties, adapted to the minimums, which would not go beyond the law of 1824.

Mr. M. replied, that such, in substance, was intended to be the operation of the bill.

Mr. Wurts objected, that the evasions of the revenue, urged as the ground of the bill, ought to be met by direct measures; by increasing the power of the appraisers, and prohibiting the importation of unfinished goods.

Mr. Dwight, in reply to Mr. M'Lane, showed that it was the object of the bill to enforce the duty of 33 $\frac{1}{2}$ %, provided by the law

of 1824; that the operation of the minimums would be, to lead the foreign manufacturer to confine himself to three specific qualities of goods, which, visibly differing from each other in appearance, will not be exposed to fraudulent entry.

Mr. Cambreleng then brought forward his amendment, having for its object, an extension of the power of the appraiser, with a view to the prevention of frauds on the revenue.

After some controversy between Mr. Cambreleng and Mr. Barney, on the merits of the amendment proposed by the latter, Mr. Ingham rose and expressed himself at length on the measure. He approved of the policy of protecting duties, but doubted the expediency of the provisions of the bill. His objection lay to the multiplication of minimums. One minimum, the lowest, there would be no temptation to evade: but there would be a strong temptation to evade all others, by false invoices. Another objection to the operation of several minimums, was, that it produced a capricious and irregular series of duties, of which the burden fell heaviest on the class least able to pay it. He was opposed to the duty on foreign wool, as injurious to the interest of the wool grower himself, which would best be promoted by building up the manufacture: and this could only be ef-



fects by making the raw material cheap. Mr. Ingham then dwelt on the expediency of relieving the manufacturer, by enforcing the appraisement system, and commented on an alleged judicial nullification of the law on that head.

Mr. Ingham was followed by Mr. Strong, who submitted a paper, containing an amendment to the bill, which he proposed hereafter to offer, and which had for its object a new regulation of the power of appraisement.

Thus far the discussion had been prolonged, and little progress made in the passage of the bill. Meantime, the quantity of other business, (much of it of an urgent nature,) remaining unfinished, was daily accumulating. On the 29th, the house, on motion of Mr. Mallary, went into committee of the whole, on the state of the union : but refused to take up the woollens bill, giving the preference to the appropriation bill of the year. The next day the debate on the woollen's bill was resumed, by Mr. Pearce of Rhode Island, in a speech of length and ability. He maintained that it was the duty of congress, to fulfil the contract, implied in the act of 1824, and give efficient protection to the woollen manufacture, as they had to every other branch of industry protected by that bill. He urged the beneficial effects of flourishing manufactures on the agriculture and com-

merce of the country : he enforced the claims of the growers of wool to efficient support, and denied that the revenue would suffer from the passage of the bill. He corrected the statements which had been made by Messrs. Cambreng and Ingham, relative to an alleged judicial construction, by which the operation of the law of appraisement was destroyed, and showed, that no such construction had been given by the courts.

Mr. Claiborne opposed the bill, as at war with the other interests, particularly the agricultural interest. He regarded it as laying a tax, which the people were already too much depressed to pay. It was directly opposed to the spirit of the constitution, which Mr. Claiborne described to be "subtle as mercury, and cunning as ambition."

Mr. Mitchell, of South Carolina, followed, in an able argument, against the bill. He admitted the correctness of Mr. Mallary's statement, that it would not seriously affect the article of negro cloths.— He denied that frauds on the revenue were proved ; if they did exist, the bill provided no remedy. The same causes had gone on progressively operating ; the manufacturers would come again for further relief ; and from higher duties, would proceed to clamour for those which were prohibitory. He

doubted the reality of the distress; he believed the manufacturers complained, because, instead of 25 per cent., they could get only ten on their capital. He denied that the discriminating duty on foreign tonnage, was a protecting measure; it was a countervailing measure. Free competition had made our navigation what it was, and not the discriminating duties. He urged, that the bill was a tax on the poor many, for the benefit of the rich few. He repelled the inferences which had been drawn from the alleged fact, that four fifths of the importing trade of New-York had passed into the hands of foreigners. He said, that this fact proved only, that the American merchants could not spare sufficient capital from other objects, to carry on the foreign trade; and that the foreigner who stepped in and supplied the deficiency, conferred a benefit to the country. Our prosperity grew up on the foundation of a liberal and hospitable system.

The debate was resumed on the following day, (January 31) in a very able argument from Mr. Davis, a member of the committee of manufactures. He stated that it was within his personal knowledge, that the memorials did not proceed from "a gang of speculators," as Mr. Cambreleng had alleged, but were founded in truth. He inquired into the causes of the existing depression; and traced it to the policy of

the British government, in reducing the duty on imported wool, from one shilling to a penny, and to a half penny per pound; he maintained that the fact, that the American merchant had lost four fifths of the import trade, was evidence of frauds on the revenue. The unprecedented low price of cloths went to the same conclusion. He showed that a policy, on the part of the English manufacturer, to destroy our fabrics, by glutting the market, was no extravagant supposition. A supply, at a low rate, of only a small portion of the whole demand, would create a depression in the entire market, and thus the English manufacturers, by a small sacrifice, would drive us to a general and ruinous loss.

Mr. Davis then illustrated the extent of the capital involved, and the importance of the home market for his produce to the farmer. He went into an examination of the effect of the bill on the particular articles comprised in it, and showed that the increase of duties had been much overrated; and that on the lowest priced cloths little or no effect would be produced. Mr. Davis then replied to the argument of Mr. Ingham, against a plurality of *minimis*, and showed that the objection applied as well to a single *minimum* as to several.

Mr. Davis was followed by Mr. Barney, in support of his amendment, proposing to insert an inter-

mediate minimum of \$1 50. He supported the bill, with this modification, on the ground, that it was necessary to the independence of a country to possess, within itself, every article of essential supply. He defended a scale of minimums, as necessary for the faithful collection of the duty. He averred, that the alarm relative to the finances of the country was groundless, and that the forebodings which preceded the tariff of 1824, had proved groundless.

The question was then taken on Mr. Barney's amendment, and it prevailed by a vote of 82 to 30. The question was next taken on Mr. Cambreleng's amendment, which went to suppress the importation of unfinished cloths, and enforce the appraisement law; and it was negatived by a vote of 63 to 80.

Mr. Wickliffe then proposed an amendment, providing for a series of increased duties on imported spirits, which was negatived, without a division.

Mr. Wright proposed to strike out the word "blankets," wherever it occurred, so as to bring that article, now exempted, under the operation of the bill. This amendment was also negatived, without a division; and the bill, as amended by Mr. Barney, was reported to the house.

Mr. Cambreleng now submitted a motion to lay the bill, as amended,

on the table. It was negatived by a majority of 63 to 93.

Mr. Wood, of New-York, then spoke to the general merits of the bill. He was in favour of the protecting policy, but preferred a direct increase of the *ad valorem* duty, which he was ready to support.

Mr. Cambreleng then renewed ~~the~~ proposal of his amendment, going to the modification of the appraisement law; and proceeded to reply to Mr. Davis's argument, but the house soon consented to an adjournment.

On the following day, (February 1,) the debate was resumed; the question being on an amendment

d by Mr. Cook, the object of which was, a recommitment of the bill, with a view to a modification of it, simply counteractive of the reduction, which had been made by the British government, in the duty on imported wool. Mr. Cook stated his readiness, if any other specific cause could be pointed out,

giving the manufacturer of the benefit of the act of 1824, to meet it by a proportionate increase of the *ad valorem* duty. Mr. Wood supported this motion, and expressed a decided disapprobation of the minimum principle. Mr. Mallary thought it too late, entirely to change the character of the bill.

Mr. Cambreleng supported the amendment, and asked for the yeas and noes on the question. Mr.

Cook replied to Mr. Mallary, and declared himself a friend to the object of the bill. Mr. Stewart opposed the recommitment, on account of the late period of the session; and because the amendment suggested went only to remove one of the evils, of which the manufacturer complained. Mr. Kremer advocated the recommitment, on the ground of the demoralizing effects to be apprehended from the bill.

Mr. Stewart then entered into an argument against the recommitment, and in favour of the bill. He maintained that it was directly friendly to agriculture; and that to import foreign woollens was to destroy the demand for so much American labour and agricultural produce, as would have been called for and consumed, in the various stages and operations of the domestic manufacture. He refuted the objection, that the bill created monopoly. He denied, that its operation was unfriendly to commerce; on the contrary, he maintained that manufactures were the best foundation of commerce. He replied also to the objection, that the passage of the law would impair the revenue, and thought that the effect of the falling off, in the consumption of some articles, would be balanced by an increased consumption of others. He called on the south to afford a protection to the manufacturer, like that

enjoyed for their own staple product. He called on the grain growing states, to sustain an interest, in which their own prosperity was most deeply involved; and pointed out the happy effects to the country of the mutual dependence of its parts on each other; and the benefit conferred on all, by the prosperity of each.

Mr. Buchanan supported the recommitment. He said that he was a decided friend of the tariff policy, and willing, in every proper manner, to pursue it. He admitted the operation on our protective duty of the British reduction in the duty on wool, and was willing to meet it. The other chief cause of the depression of the woollen manufacture, viz. the influx into this country of a surplus of goods, manufactured in England for the South American market, was temporary, and would soon cease to operate, without a resort to counteractive legislation. The state of Pennsylvania, which he represented in part, had not now, and never had, any great peculiar interest in domestic manufactures, but had always supported the protecting policy. But the operation of this bill went beyond the genuine principles of that policy; was unequal and unjust. He had no expectation, that any bill, could pass this session, but was willing to pass one, in conformity with the principle of Mr. Cook's amendment.

Mr. Hamilton briefly opposed the bill; and advocated its recommitment, on the ground, that its friends were not agreed, either as to the cause or proper remedy of the evil. One gentleman traced it to British legislation, another to frauds on the custom house; neither had adduced evidence, which, in a court of justice, would create a presumption.

Mr. Cook's amendment was, on Mr. Ingham's motion, modified, by the addition of a clause "to provide for the more effectual collection of the impost duties," and then rejected by a vote of 93 to 95.

On the 5th of February the consideration of the bill was resumed, in the house of representatives. Mr. Archer opposed it, in a speech of considerable length. He said the real object of the bill was, to raise the duty on imported woollens from 33½ to 224 per cent. He denied, that there was any proof, that the payment of duties had been evaded; the officers of government knew nothing of it. If they were evaded, the amendment of Mr. Cambreleng provided a remedy. He denied the propriety of increasing our duty on cloths imported, because the British government had lowered its duty on wool. The distress of the manufacturers was the result of the tariff policy, which had attracted an undue amount of capital to that branch; to increase the duty would aggravate the evil.

Every tariff was, in its nature, prohibitory; and if not so in its immediate provisions, was so in its tendency; by increasing the distress, it made higher duties necessary. He denied that the article would be rendered cheaper. He denied that cottons had been rendered cheaper: it was shown by the fact, that the friends of the cotton manufactures dare not now repeal the duties on cottons imported. Manual labour was a great element in the woollen manufacture, and it is this, in which we can least support a competition with Europe. As to the raw material, we cannot support a competition with Buenos Ayres, where sheep are used for fuel, and if "a man wishes to burn bricks, he drives a flock of sheep into the kiln." Our climate is not more favourable to the raising of wool than of wine. He denied, that the markets for southern produce would be extended. They would be, on the contrary, diminished; for Europe would not take our produce, unless we take her fabrics in payment. The single county of Genessee would supply with flour, all the manufacturing establishments in the union. He denied the constitutional right to impose the duty, for it was designed to benefit a single class. He deprecated its effect on the revenue. If the manufacturers ask any thing, it is charity; for so the provisions of the bill ought to be called, and not pro-

ection. No agricultural or any other interest enjoyed protection; here was none even in England, except that arising from counter-vailing duties. The true object of the bill was, not even to relieve the 10,000 persons, whose employment is said to be at stake; but perhaps 700 capitalists. The question presented to the agricultural interest is, whether it will exchange the market of the world, for that of New-England. He deprecated the passage of the bill, as ominous to the preservation of the union.

After the close of Mr. Archer's argument, Mr. Cook observing that there remained but fourteen days of the session, at which public bills could be considered, avowed the intention of asking the previous question, whenever he could obtain the floor.

Mr. Ingham submitted a motion of recommitment of the bill, providing, in substance, for the establishment of fifteen minimums of imported woollens.

The debate was resumed the following day, (Feb. 6,) and the bill supported in an argument, by Mr. Sill. He defended the bill, chiefly in reference to its favourable effect on the agricultural interest, which furnished the raw material, and which now embraced a very large capital invested in flocks, which the downfall of the manufactures would destroy. He urged that any trifling increase in price, would

be met by an increased power to pay, in consequence of bringing into value produce, for which there is now no demand. The low priced cloths, on which the proposed duty would fall heaviest, are not imported to any great extent; they are not even made in the factories, but are the product of the household manufacture. It is not impossible, that the operation of the bill would enable household industry to furnish the article, in the place of imported cloths, which the bill would exclude. He treated the question as one connected with the national independence, particularly in time of war; and replied to the observations of Mr. Archer, that the grain growing states would not be largely benefitted by the extension of manufactures.

Mr. Bryan followed, in opposition to the bill. He deemed it at war with the best established truths of political economy. Private sagacity and interest were better guides to the employment of industry, than the wisest government could be. The industry employed in raising a bale of cotton was as much entitled to protection, as that employed in producing one of cloth. Commerce and agriculture are better adapted to the state of this country than manufactures; and the doctrines of the liberal school of political economy, are not only maintained by theoretical writers, but have received the sanction of the

present British ministry. The depression of the manufacturing interest has not been stated with sufficient distinctness by the friends of the bill, to be a safe source of legislation. It is perhaps only a reduction from extravagant to moderate profits. The cotton growing interest is vastly greater than that for which relief is now asked: the fluctuation in its market is more disastrous; but the planter never thinks of asking protection. In the operation of this bill, the foreign cotton market will be destroyed. He replied to the argument, that the British government had reduced the duty on wool.—The precipitation of the friends of the bill was censurable; the depression resulted, perhaps, from temporary causes, and would soon cease to operate. It established an odious monopoly, in favour of the manufacturers—a class of men, whose pursuits were destructive to health, manliness of character, and free republican principles.

Mr. Bryan was followed by Mr. Drayton, in a long and able speech, on the same side. He denied that the charge against the British government of insincerity, in the support of the principles of free trade, which had been made by Mr. Mallory, was just: he maintained, that the united authority of her statesmen, and the actual measures of her legislation, proved that she was sincere. He forti-

fied his proposition by specific allusion to the articles of silk, cotton, woollen, iron, and the colonial trade. He denied the existence of the frauds on the revenue alleged, or the adaptation of the provisions of the bill to remove them, if they existed. He contended, that the monopoly of the home market would be no protection against ruinous fluctuations. He traced the depression in the price of cloths, not to frauds on the revenue, but the surplus manufacture in England, which had been occasioned by a great variety of causes; and had glutted all the markets of the world.

In reply to the argument, that the reduction of the English duty on wool required an increase of the duty on cloth imported into this country, he rejoined, that the fall in the price of wool in America had more than counterbalanced the reduction of the English duty. He then stated, that the high duty on imported wool would injure the manufacturer, and through him injure the wool grower; and that we ought to learn, from the example of the English government, to reduce instead of augmenting the duty on wool. He commented on the bill as a system of prohibition, intended to save the manufacturers from the effects of their folly, in embarking too extensively in the business. He denied that, in consequence of the minimum duty on

coarse cottons, that article was furnished cheaper than it could be imported. He had seen invoices of coarse cotton imported here, and after paying duties, sold in this market. In England, those branches of industry, which had never enjoyed a monopoly, flourished best : at the present time, our own navigating interest was a similar instance. It sustained the competition with the English, though the discriminating duty is repealed. Competition was the true source of improvement. Our manufacturers already enjoy a great advantage over the British, for the supply of our own market ; and if they cannot thrive, with the present duties, it is evidence that the country is not ripe for the manufacture. Other branches were as much depressed, and as much entitled to relief. This bill was not asked for by the agricultural interest at large, but only by the growers and manufacturers of wool. He said the friends of the bill had furnished no precise documentary statements, and differed from each other, as to the design and operation of the bill. Mr. Drayton closed, by quoting the authority of Dr. Franklin, against restrictive and prohibitory measures.

The foregoing sketch exhibits but a faint idea of Mr. Drayton's able argument. He gave way, during the delivery of it, to several motions for adjournment, made by

the opponents of the measure, but without success. At the close of his arguments, Mr. Woods rose to move the previous question. His right to the floor was contested by Mr. Hamilton, but the decision of the chair in his favour was sustained, on an appeal to the house by Mr. Hamilton, by a vote of 98 to 54. The call for the previous question was seconded by a vote of 84 to 77 ; but, on taking the ayes and noes on the question, "shall the main question be now put ?" it was negative, 92 to 94.

The debate was resumed on the following day, and the bill was opposed by Mr. Rives, at considerable length, in a speech, of which we have not seen a report. After some incidental discussion, a question arose, on a motion by Mr. Ingham, (substantially the same as that formerly mentioned,) to recommit the bill to a committee of the whole house, for the purpose of increasing the number of minimums to fifteen. On this question a desultory debate took place, which ended in a motion by Mr. Hamilton, for a *call of the house*, which was followed by another from Mr. Wright, for the *previous question*. Mr. Forsyth suggested, that a motion for a *call of the house* had preference over that for the *previous question*. The speaker decided, that it had not such a preference. From this decision, Mr. Forsyth appealed to the house, and



an animated and protracted debate arose, in which many gentlemen participated, on the propriety of the decision of the chair. The debate was terminated, by the withdrawal both of the motion for the previous question and the motion for a call of the house ; and the question being taken on the motion for recommitment, it was decided in the negative, by a vote of 101 to 104. After another ineffectual attempt to obtain the previous question, the vote was taken on Mr. Cambreleng's amendment, relative to the appraisement law : and it was rejected by a vote of 89 to 113. Mr. Wickliffe then took the sense of the house, on an amendment providing an increase of duties on imported distilled spirits ; which was rejected by a vote of 74 to 128.

A motion was now made by Mr. Ashley, to amend the bill, so as to make the duty on imported wool, commence at the same time with that on woollens. This motion was supported by Mr. Hoffman, on the ground that the benefit intended to be provided by the bill to the farmer, ought not to be postponed ; and it was opposed by Mr. Mallary, on the ground that the farmer could not at once increase his flocks to the full supply of the market, and by Mr. Archer, on the ground that a free importation of wool was necessary to prevent an exorbitant rise in the price of do-

mestic woollens. Mr. Powell also advocated the amendment, but it was finally decided to be out of order. Mr. Forsyth then moved an amendment on the same principle, but postponing the time when the duty on woollens should commence ; and this was rejected by a vote of 88 to 108.

The question was then presented, on the third reading of the bill, and the yeas and nays being called for, an adjournment was moved, which was negatived.

Mr. Buchanan then rose, and spoke against the bill, as tending to favour a local monopoly, and contending that it ought not to pass, without being connected with some provision protecting the whiskey manufacture of Pennsylvania.

Mr. Stewart replied to Mr. Buchanan ; and after some further discussion, between Messrs. M'Duffie, Cambreleng, Cook, and Kremer, against the bill, and Messrs. Burgess and Storrs, in favour of it, the house adjourned, by a vote of 93 to 90.

The next day, (February 8,) the debate was resumed, and Mr. Hoffman moved to recommit the bill, with instructions to make certain amendments, with the view of making the increase of duty on imported wool take effect at the same time with the proposed increased duty on woollens ; and supported his motion in a speech of great length. Mr. Stevensen, of Penn-

To carry into effect subsisting treaties, 186,868 18

In addition to the sums appropriated by the military service bill, the sum of \$15,000 was appropriated for building an arsenal at Augusta, in Maine ; and for internal improvement, the following sums :

For improving the navigation of the Ohio,	30,000
For the preservation and repair of the Cumberland road,	30,000
For opening roads in Florida,	22,000
do. in Arkansas,	21,065
do. in Michigan,	33,500

The other appropriations for internal improvements, introduced in a bill for the improvement of certain harbours, and for building piers, &c. were as follows :

For improving the harbours of Hyannis, Saco, Cleaveland, Saugatuck, Kennebec river, and Pascagoula river,	41,150
For building piers, &c.	40,926 45

Certain appropriations falling under this class of public expenditures, were also made in the bill for building light houses, &c. These were—

For building light houses,	31,126
Beacons, &c.	10,078 40

To these last bills, Mr. McCoy, and Mr. Mitchell, of Tennessee, offered an earnest opposition, and called for the yeas and nays on the final passage of the former, which, being taken, stood 129 affirmative, 28 negative.

The miscellaneous appropriations not enumerated above, amounted to \$35,300 ; and the appropriations for private claims, settled at the treasury, \$11,820 86.

In conformity with the settled policy of the United States, in relation to fortifying the sea coast, the following sums were appropriated for the completion of the forts hereafter enumerated, viz :—

Fort Adams, at Benton's point,	\$70,000
Hamilton, at New Utrecht.	55,000
Monroe,	90,000
Calhoun,	55,000
Macon, at Bogue point.	15,000
At Oak Island,	25,000
At Mobile point.	70,000

At Chef Mentiur,	30,000
Jackson,	80,000
Repairs and contingencies,	15,000

In presenting this bill, Mr. Dwight informed the house that it had been the wish of the committee of ways and means to reduce the appropriations for the current year ; and after application to the war department, the committee had determined to recommend the above sums, which were a pro rata diminution of the appropriations of last year, amounting in the whole to a reduction of \$140,000. The recommendations of the committee were adopted by the house, and afterwards the bill passed the senate without amendment.

On the 21st of February, the house took up the bill making appropriations for the naval service of 1827.

Mr. Barney moved an amendment, appropriating \$20,000 for the purchase of a site for a naval yard at Baltimore ; which was decided in the negative.

Mr. Cook then moved an amendment, authorizing the auditor of naval accounts to make transfers of accounts and balances to other accounts, so as to adjust and settle the same. This amendment was adopted, and a debate then commenced on the appropriation of \$36,710 to the African colonial agency.

Mr. Forsyth objected to this ap-

propriation, because similar appropriations had been used to found and support a colony at Liberia, contrary to the intention of congress. Certain labourers were sent to Africa, under the act of 1819. The first colony was unfortunate. A treaty was then made by the agent, aided by a United States naval officer, for the purchase of land. A war finally ensued, and a fort was erected by an officer of the United States, and arms and ammunition provided.—Money was then furnished by the United States, and a war ensued, in order to put down the slave trade ; and a piratical attack having been made upon the colony by a Spanish vessel, some sick Spaniards on shore were taken prisoners. Other acts of hostility were committed ; and now the agent requests a military force from this government.

The reply of the secretary censures the conduct of the agent ; but does not impugn his motives. If he had only recaptured Africans, the department would have sustained him ; but, having gone further, the society must be answerable for the consequence.

Mr. F. wished to know how far we were going. The connexion with the colonization society must

be dissolved, or it must be legally authorized.

Mr. Cook did not mean to go into a reply to these remarks. The house was called upon to make the appropriation under an existing law, in order to carry that law into effect. The United States government had determined to set her face, and array her moral and physical power, against the slave trade. In fulfilment of the law, the president had sent out an armed vessel, and blacks taken on their passage to a land of bondage, had been restored to Africa. The original appropriation under that law, is now exhausted; and now one hundred and eighty Africans, who are in possession of the United States, are to be sent to their own country. The gentleman from Georgia thinks that they will be happier here than in Liberia. He would not open the door for the slave dealer to prey upon them. The sum asked is only for captures already made.

Mr. Mercer defended the con-

duct of the agents, refuted the statements made by Mr. Forsyth, and referred to the annual reports from the society. He also moved an addition of \$30,000 to the appropriation, which was negatived. The original appropriation was then agreed to.

Mr. Hamilton moved an amendment, confining the expenditure of the appropriation to the subsistence and transportation of the captured Africans, but

The bill then passed the house, and was sent to the senate for concurrence.

In that body, the amendment moved by Mr. Cook, authorizing the transfer of accounts, was stricken out, 33 ayes, 8 nays. The unexpended appropriations were then reappropriated as a substitute, and the bill was passed and sent to the house, where the amendments were concurred in.

By this bill, the following appropriations were made for the naval service for 1827.

For pay, subsistence, and provisions,	\$1,922,496 51
Repairs of vessels,	450,000
Repairs and improvements of navy yards.	231,700 72
Medicine and hospital stores,	50,000
Ordnance,	35,000
Enumerated contingencies,	220,000
Non-enumerated do.	5,000
Expenses of marine corps,	312,134
Surveys of dry docks,	2,707 27
African agency,	36,710
Arrearages prior to January, 1827.	20,000

By a subsequent bill, \$500,000 were appropriated for the gradual improvement of the navy, pursuant to a particular recommendation of the president in his annual message. By this bill, as it was first introduced into the senate, an annual appropriation of half a million for six years, was made for the improvement of the navy.

The president was authorized to take proper measures for the preservation of the live oak on the public lands, and also to reserve all public lands, having live oak thereon, for the use of the navy. Two dry docks were also authorized, the one to be erected north and the other south of the Potomac; and if, upon inquiry, it should be found expedient, the executive was authorized to cause a marine railway to be constructed at Pensacola. An examination was authorized of all the navy yards, and the president was authorised to establish a naval academy for the instruction of midshipmen and other naval officers.

Mr. Hayne, the chairman of the naval committee, advocated its passage, in an eloquent speech, reviewing the naval policy of the United States, from the first existence of the government.

The navy, he said, had fought itself into favour, and the policy of the government in augmenting it, adopted immediately after the war, had not only been strictly adhered

to, but unanimously approved of by the whole nation.

By the first act, passed April 29th, 1816, \$1,000,000 per annum was appropriated, for 8 years, for the increase of the navy. Five years afterwards, this appropriation was reduced to \$500,000, but the remaining time was doubled, so that the same policy was still adhered to. The time will expire at the end of this session; and it is now proposed to continue the same policy.

He thought that experience had demonstrated, that a navy was not only the safest, but the cheapest defence of this country. The people were of that opinion, and the policy adopted by the law of 1816, was the first result of that opinion. The object of that policy in the first instance was to give to the United States a navy, consisting of 12 ships of the line, 20 frigates, 16 sloops of war, 4 schooners, and 3 steam batteries. That object has been attained. It is true that these vessels are not all finished, but they are in such a situation, that they can be speedily brought into the public service, and the balance of the appropriations on hand, will be sufficient to place those unfinished, in a state of preservation.

The question now is, shall we stop here, or adhere to what may be considered the settled policy of the country, and continue the annual appropriation, and make it ap-

applicable to those objects upon which depend the efficiency, and permanent success of the navy.

He now went into a comparison of the different means of national defence, and showed the decided superiority of the navy.

Under these circumstances, he was unwilling to subject the navy to an annual contest for such appropriations, as were necessary to preserve its efficiency, and promote its improvement. The demands annually made on the national funds, exceed our resources. In many of these, individual and local feelings and interests are deeply involved, and he was unwilling to be told, that the navy bill stood in the way of some break-water or some favourite scheme of internal improvement. To prevent this, he wished an appropriation for the navy, which should be a standing charge on the treasury, liable neither to be increased nor diminished by transient causes. A fund of this nature is always resorted to, whenever a great national object is to be obtained. He referred in illustration of this remark, to the annual appropriation of ten millions to the national debt—an appropriation productive of the most beneficial consequences. He considered it to be true economy, for the public to appropriate the public money for such objects, as involve the true interests of the country; and that it would be more promo-

ted by permanent appropriations, than if they were procured upon an emergency. Experience has proved, that the frames of frigates can be obtained in this way, at about the same price as those of sloops of war under annual appropriations. He then proceeded to consider the objects to which this fund was to be applied.

It was not now intended to increase the number of public vessels, but looking to the future, it was obvious that the increase of our commerce, and of the wealth and business of the country, will render an augmentation of our navy necessary. To adapt our public establishments to the condition of the country, they must be constantly progressing. To stop short in our course is to retrograde. Ships then must be built hereafter, if not now wanted; and to render them permanent, they must be built of seasoned timber. The live oak of the south derives all its durability from being seasoned. The live oak cut in 1798-9, for the navy, was placed under sheds, and remained in that situation until 1813. It was then perfectly sound, and was used for the frames of the Independence, Washington, and Franklin. This material, which is superior to any in the possession of any other nation, for vessels of war, is fast disappearing; and we are admonished by its rapid consumption, to take immediate steps

for its preservation. Our own marine has, within the last twelve years, consumed an immense quantity of it, and had led to the waste of a great deal more ; and last, though not least, an almost incredible amount has been carried away for the navies of other countries.

An intelligent agent, who was employed about ten years ago to explore the southern states, for the purpose of ascertaining the quantity and quality of live oak, fit for naval purposes, has, within twelve months, been employed in the service. His report represents the diminution as almost incredible ; and urges the instantaneous adoption of proper measures to remedy the evil.

From one single river in Florida, 15,000 feet of live oak were shipped within a few months ; and so strong is the conviction of the navy department as to the diminution of this timber, that it has been proposed to set about planting young trees for the use of the navy. Half a century must elapse before these can be cut ; and in the mean time, it is necessary to save for the public service all that now remains of a material almost imperishable. With this view, the bill proposed \$2,000,000 in the whole, for the purchase of ship timber, to be laid up and preserved.

The next object of the bill was, the building dry docks. The ex-

pense of heaving down a 74 gun ship, coming into port, and making even small repairs, was estimated at \$20,000, besides the great delay. For ordinary repairs, a month would be necessary ; and at certain seasons of the year, it was unsafe to heave a vessel down ; and at all times the vessel is greatly strained. Besides this, vessels often require to be hove out, not for repairs, but for examination. This causes great delay, and in time of war would impair the efficiency of the navy.

With suitable dry docks, all this may be remedied. Ships can be examined and discharged immediately ; and repairs, when required, can be made with less delay and expense. In England, not long since, a frigate, with all her provisions and armament on board, was run into dry dock for examination, and sailed on her destination the same tide. England has sixteen dry docks, and three more building. In France there are twelve, all of the most durable materials. Not long since, a naval officer, now a member of the navy board, was sent to Europe, to obtain the necessary information on this and other subjects connected with the naval establishments of that continent. In addition to the mass of valuable information furnished by him, an experienced civil engineer has, under the orders of the navy de-

partment, lately made minute surveys on this subject. From these surveys, it appears that dry docks at the following places, will cost as follows :—

Portsmouth, N. H.,	\$349,571
Charlestown, Mass.	356,864
Brooklyn, N. Y.	380,116
Gosport, Va.	398,800

He now proceeded to remark upon the marine railway at Pensacola, which, he said, from the best information before the committee, they were convinced, was cheaper than a dry dock ; and that it might be advantageously used for sloops of war and smaller vessels, though hazardous for the repairs of frigates and ships of the line. The bill proposes to erect a railway where it will be certainly useful, and where we can learn from experience its practical value.

The only remaining object of the bill was the naval academy. He thought it unnecessary to descant upon the superiority of the scientific, over the uncultivated naval officer. This question was fully settled in the public mind. The simple question is, whether it is expedient to give this scientific superiority to the officers of the navy, at the public expense. The object of the academy is, to place within the reach of all the officers, what men of superior minds acquire by extraordinary exertion.— Both in France and England there are naval schools. The navies

of those countries are steadily improving ; and we must advance step by step with them.

In peace, too, more than one half of the navy must be in ordinary. Of course the officers then employed, will not be equal to the exigencies of war. The officers now in the navy will not be sufficient to command one half of the vessels built. This appears from an official report of the secretary of the navy.

In Europe provision is made for the requisite number of officers in war, by keeping up a larger peace establishment than is consistent with the policy of the United States.

The evil must be then remedied, in some other way, and the naval academy presents the most efficient means.

If the greater portion of the midshipmen were thoroughly educated men, and fit to be lieutenants, (which is not the case at present,) in the event of a war, the list of officers might be completed by promotions from the inferior grades, and the deficiency in the



class of midshipmen could with ease be filled up from among the promising young men of the country.

The present organization of the officers will not admit of such an arrangement.

Such are the objects proposed by this bill. In proposing the appropriation of half a million of dollars a year for the gradual improvement of the navy, the committee deemed it fair and proper to introduce into the bill all the objects to which it was proposed to apply that fund. The senate thus have a connected view of all that it is designed to do for the improvement of the navy; and by taking their opinion on each proposition separately, we know that nothing can be retained in the bill which has not a majority in its favour. If this bill shall pass, very little will remain to be done, for several years to come, for the advancement of the navy. It will be necessary, indeed, to give a better organization to the peace establishment, and to revise the rules and regulations for the government of the navy, both of which objects will engage the early and earnest attention of the committee, at the next session. Nothing further will then remain to be done, but to keep the system in vigorous and harmonious operation, in order to fulfil the proudest hopes of the nation in relation to the navy.

Mr. Chandler objected to the bill, because so much was left to the discretion of the executive.—

This satisfied him that the bill was not sufficiently understood. He therefore moved to lay the bill on the table, with the view of defeating it.

This motion was lost.

Mr. Woodbury moved an amendment, fixing the site of one dry dock at Gosport, and the other at Portsmouth; and went into a comparison of the advantages of the latter port over Charlestown.

Mr. Silsbie replied, and the amendment was rejected.

Mr. Smith, of South Carolina, moved to strike out that part of the bill, providing for a naval academy. It was a new subject, and would be attended with expense, of the extent of which they were not yet aware.

Mr. Hayne denied that it was a new proposition. It had been acted upon and discussed during the last session, upon the recommendation of the executive. As to the expense, the cost of its establishment was estimated at \$30,000; and its annual expense would not exceed a few thousand dollars.—As the sloop of war, attached to the school for exercise, was to be employed on actual service, the midshipmen on board would take the place of others.

Mr. Johnston said, that the annual expense would probably not

exceed \$6000. The great difference between the expense of the West Point academy and the naval school, was caused by the pay and rations of the cadets; whereas the midshipmen already have theirs, and of course, do not cause any additional expense. The motion was rejected, 24 to 22. Ten acres then being fixed upon as the quantity of land for the site of an academy; the bill was passed, and sent to the house for concurrence.

On the 1st of March, this bill was taken up in the house, and Mr. Storrs moved to strike out an amendment introduced by the committee on naval affairs, fixing the sites of the dry docks at Portsmouth, Brooklyn, and Gosport. This motion was agreed to, with the view of leaving the selection of places to the president. Mr. Bartlett then moved to amend the bill, so as to authorize the construction of four dry docks, instead of three, the number reported from the committee. This motion was negative.

Mr. Eastman then moved to strike out the section authorizing a naval academy. Messrs. Hoffman, Kremer, Wickliffe, Burgess, Sawyer, and Bradley, advocated this amendment. Messrs. Drayton, Buchanan, Weems, Storrs, S. Wood, and Mullary opposed it. The house struck out that section, by a vote of 86 to 78. After an ineffectual attempt to reduce the appropriation, on account of the rejection of the naval

school, the bill was passed, and sent to the senate, with the amendments.

The amendment increasing the number of dry docks to three, was then disagreed to, 28 negative, 16 affirmative; but the amendment striking out the naval school, was agreed to, 22 to 21. In the house, the amendment respecting dry docks, was at first insisted on, 95 to 44; but the senate insisting on its disagreement, 23 to 16, a committee of conference was appointed by the two houses, which recommended, that the house recede from its amendment, and that a clause be added to the bill, recommending two more docks, at Brooklyn, and at Portsmouth; to be commenced when the others shall be finished. The senate, however, refused to concur in this recommendation, 25 to 14; and the house, finding that the bill would otherwise be lost, receded from its amendment, and passed the bill.

When the bill, making appropriations for the public buildings, was under consideration. Mr. Everett moved an amendment, by which \$25,000, which had been appropriated last year, for furnishing the east room in the president's house, were transferred to the unappropriated fund in the treasury; excepting \$6000, which had been already expended, under the act. This appropriation had been made the subject of much clamour against

the president, although it had been originally made almost without opposition, in congress. In order to rebut such accusations of extravagance and prodigality, some of the friends of the present incumbent supported this amendment.

Mr. Webster said he would support the amendment, but it was with great regret. He thought it due in justice to the individual himself, who had been made the subject of such unmerited attack. We who live here, know full well, that there would be no extravagance in giving the sum reported; but as misrepresentations had been made, he would not give a vote which could sanction them any further. He stated, that the committee had reported this appropriation last year, without any request of the president, or any communication with him. He himself was then opposed to it: but it seemed to be the wish, almost the unanimous wish, of the house. The gentleman from Georgia put the question on its true ground. It has, however, been made a ground for a charge of extravagance; and therefore, it is unjust to him who has not asked for it, to give room for further misrepresentation. On the subject of furnishing the president's house, he produced a certified statement from the register of the treasury, giving an account of the money expended on the president's house in every administra-

tion. Gen. Washington had expended \$13,000; Mr. Adams \$23,000; Mr. Jefferson, \$20,000; Mr. Madison \$25,000; and Mr. Monroe \$50,000. The appropriation for the present incumbent was that, which was in the recollection of the house.

Mr. Forsyth said, the occurrences of the last session are known. He thought the appropriation necessary, and still thought so. He did not lead in the discussion, but merely followed. He had thought that the committee, in presenting the subject last session, intended to give a silent vote. But now the case is changed. A gentleman of the committee proposes only \$6000, and is supported in this view by his colleague. If the committee think this sufficient, he had no wish to increase it. He had no desire to give reason for imputations on the president. He should do it with great regret, thinking the first sum not too large. It has been said, the finishing this room would enlarge the expenditure of the president. This did not necessarily follow. He will act from his own taste and feeling. No one would complain if he expended less in his entertainments.

The amendment was carried, ayes 97, and after making provision for an assistant librarian, to the congressional librarian, the bill was passed, and sent to the senate for concurrence. Some disagreement afterwards occurred between

the two houses, relative to the completion of the capitol, but it was finally adjusted, and the bill passed.

For completing the work on and about the capitol and en-

closures,

\$83,985 05

Repairs on the capitol,

500

Repairs, &c. at war and navy departments.

1,495 35

Fire apparatus,

1,227

Completing penitentiary,

15,390

Office of clerk of supreme court,

450

Congress, having made the annual appropriations, adjourned on the third of March, leaving unfinished an unprecedented number of bills, the passage of many of which was imperiously demanded by the public interest. Too much of its time had been consumed in debates of a political character, and the feeling which was universally manifested of disappointment, and chagrin, at the manner in which the attention of the national legislature had been diverted from the business of the country, fixed the stamp of public reprobation upon the 19th congress, and left no regret at its constitutional termination.

Among the extraordinary measures adopted this winter by those who composed the opposition, was one, which, considered in connexion with the principles held by that party, on the powers of the federal government, and the rights of the states, is deserving of a passing notice.

An inland trade had been carried

on for several years past, between the people of Missouri and the citizens of Mexico, by means of caravans from St. Louis. Some of these traders had been plundered by Indians, in the Mexican territory, and their demands for indemnity, if tenable, fell properly within the cognizance of that department of the government, having the management of our foreign relations. This obvious reflection was either overlooked, or intentionally disregarded, by one of the senators of that state, Mr. Benton. On the 3d of January, in his official capacity, as a representative of a state, Mr. Benton addressed a letter to the Mexican minister at Washington, claiming indemnity for these claims, and opening a correspondence, with the view of obtaining it from the government of Mexico.

The Mexican minister, understanding that the senate was the constitutional body, to ratify or reject all treaties, supposed it to be an official act and answered the

letter, requesting an explanation of certain statements, made by Mr. Benton. In whatever view this correspondence is considered, it is extraordinary and unprecedented.

The negotiation with foreign powers, is confided, by the constitution, to the executive department of the federal government; and if members of the senate, undertake to represent their respective states in such transactions, a door is at once opened to the inter-

ference of foreign powers, in our domestic concerns; and the advantages of representing the sovereignty of the United States, in our government, are relinquished.

The whole transaction was a violation of the confederating principle of the American union, without a precedent, and involved a departure from the spirit and letter of the constitution, never witnessed before, and one, which, it is to be hoped, will never occur again.

## CHAPTER VII.

*Mexico—Congress of 1827—Foreign Relations—Ecclesiastical Affairs—Persecution of the Spaniards—Laws against them—Plot and execution of Arenas—Arrest of Negrete and Echavurri—Disturbances in Durango—Yaquis—Texas—State of Parties—Expulsion of Esteva from Vera Cruz—Attack on Mr. Poinsett—Rincon's Proceedings—The Navy.*

CONFORMABLY to the provision of the constitution of MEXICO, the second congress assembled the first day of the year 1827. Apprehensions of open hostility from Spain, no longer exercised any extensive influence over public measures ; but still the acts of the national legislature, and the general history of the year, will show that fears, either real or affected, of Spanish partialities and corruption, within the republic, produced the greatest agitation in the public mind. The message presented by president Victoria, at the opening of the chambers, congratulated the members, that the period for the return of their duties, found the country tranquil ; and its prosperity increasing from day to day, as its republican institutions gradually acquired maturity and solidity.

He stated, that a special minister, signor Tamacho, had been despatched

to London, for the purpose of making certain explanations, which were necessary for the completion of the treaty with Great Britain : and that the treaty with the United States would be submitted to the congress, it being confidently expected that the public relations with two governments, of so much importance, would speedily be put upon a stable and permanent footing, by the mutual ratification of these treaties. In fact, at the close of the first session of the legislature in May, president Victoria announced, that the negotiations with England had finished ; and the treaty had arrived in Mexico to receive its ratification. He stated further, that an arrangement with France was also anticipated. A commercial agent had presented himself in behalf of the French government ; but as he bore a commission only from Admiral Du-

perre, commanding on the station of the Antilles, the executive of Mexico had thought fit not to recognise him in his public capacity, until he could exhibit credentials direct from his king, and in due form. A confidential agent was now in Paris, to represent the interests of Mexico ; and the Mexican flag was admitted in the French ports on precisely the same terms that the ships of France were in the ports of the republic. These circumstances, it was hoped, would lead to a more frank and liberal intercourse between the two governments, than France had heretofore been willing to allow.

Nothing had occurred to interrupt the friendly relations of Mexico with the other governments of the south. The disorders in Central America ; the apprehended change in the constitution of Columbia ; the war between Brazil and Buenos Ayres ; and the unsettled state of these countries, afforded serious cause of regret to the government of Mexico. But the president had carefully abstained from the commission of any acts, which could compromise the strict neutrality of the republic, in regard either to the external wars, or the domestic commotions of its common allies. We shall not attempt a minute account of the proceedings of the Mexican legislature ; but merely enter into explanations concerning a few subjects of gene-

ral interest. One was, the discussion concerning the state of the church. In consequence of the injudicious letter of the papal court, exhorting the Spanish Americans to return to their allegiance, great opposition existed to making a *concordat* with the see of Rome. Some of the state legislatures openly opposed it. Those of Zacatecas and Durango addressed energetic memorials to the general government, recommending the assumption of the fratriate. Jalisco went so far as to take the collection of the tithes out of the hands of the clergy, and vest it in a junta of four, of whom, but one member was an ecclesiastic. A committee of congress, in reporting upon the instructions given to the envoy to Rome ; while they professed a disposition to be governed by the pope in matters of faith, advised the convocation of a general council, to meet every ten years, for the purpose, it is to be presumed, of regulating points of church government, independent of the pope ; and urged, that a certain sum annually should be paid to him, in the shape of a voluntary gift, and not of tribute, as the basis of a *concordat*.

But the measures in respect to the old Spaniards, reproachfully known by the epithet of *Gachupines*, are the most curious and important. Notwithstanding the constitution guaranteed to them equal rights with the Creoles : yet the en-

animosity of the latter towards them, has frightfully increased within the last year; and now renders the situation of every Spaniard in Mexico, critical in the highest degree. Recent events, particularly the plot of Padre Arenas, of which we shall speak hereafter, have served to excite suspicions against Spaniards, it is true; but independent of any specific incident, a rooted hostility exists between the two classes, created by natural causes, and fostered by designing men. Much of this antipathy of the Creoles against the Gachupines, is handed down, undoubtedly, from the time when the latter possessed every post of honour and profit in the country, and the former were treated as a degraded caste. But other causes exist for the present excitement on the subject; among these, it is to be considered, that, as Spanish families hold the great mass of the real property, they are objects of jealousy on that account; and their superior learning, and the more aristocratic condition in life which they have enjoyed, probably aggravate the enmity of the poorer classes. Add to this, what is generally true of them, that their secret partialities, their wishes, and sometimes their influence, are opposed to the republican institutions of the country. Great efforts are made to augment their unpopularity, by all the complicated machinery of a free press. Essays in the newspapers,

handbills couched in the most inflammatory language, satirical placards; in short, all the devices, which the ingenuity of party animosity can invent, are industriously put in requisition, to render the Spaniards a marked and hated race.

Under the influence of these feelings, co-operating with some just causes of suspicion, a law passed the federal congress depriving all natives of Spain, employed in the army, custom-house, and post office, of the places held, until Spain should recognise the independence of Mexico. It was published in the city of Mexico, on the 11th of May, and received with extravagant demonstrations of joy on the part of the populace. In anticipation of it, all business was suspended throughout the city, and the Spanish merchants, justly alarmed for the safety of their property and lives, awaited the event with trembling anxiety. The proclamation of the law was followed by the discharge of fire-works, and the ringing of the bells throughout the remainder of the day. Nothing but the presence of a strong guard under arms, and bodies of cavalry to patrol the streets, prevented the mob from breaking out into the most violent outrages against the objects of their jealousy and hatred.

This law was followed by others, enacted in several of the states, of



a more decided character. They began by immediately adopting the principle of the law, and applying it to the states, so as to exclude all native Spaniards from holding any office of trust or profit in the state, with various modifications of hardship to the disfranchised persons. Thus the state of Queretaro, by an act, under date of May 31st, which we have before us, decreed their suspension from office until Spain should acknowledge the independence of Mexico, continuing to them one half of their salaries, during their suspension. Soon afterwards, the state of Mexico prohibited all Spaniards in that state from wearing or using arms of any description, without special license from the governor.

Things remained in this posture during the summer; but at the close of it, the excitement and violence against the Spaniards broke forth in the most unrelenting persecution. The legislature of the state of Jalisco, had passed a decree for the expulsion from that state of all the native Spaniards resident there; and although the decree was discussed in the national senate in September, and pronounced unconstitutional by that branch of the legislature; yet the zeal of the states, and the activity of individuals, appeared likely to effect what congress declined to do, acting in behalf of the whole nation. A resolution was submitted in the

house of representatives, for the banishment of all Spanish ecclesiastics, and the confiscation of their property; but it did not obtain a majority of votes. In Acapulco and its neighbourhood, a movement was made by the natives against the Spaniards, which drove the latter to take refuge in the ships laying in the harbour, for the preservation of their lives. Here, and elsewhere, barbarous excesses were committed by the populace, such as pursuing the Spaniards in the streets with knives and swords; and the cry for blood was raised in some of the newspapers, and by individuals in congress, in a way to shock every friend of humanity and of social order.

In October, the state of Mexico passed a decree for the expulsion of all the Spanish clergy and priests from the territory of the state; and the transfer of all the church property in their hands, such as the convents, with their furniture, lands, and stock, images, and ornaments of churches, and the like, to native ecclesiastics, under the direction of the governor of the state. This decree was passed on the 16th of October, and on the 23d ratified by the executive council, who ordered that it should go into complete operation within eight days from its publication. Indeed, a general excitement against the persecuted Spaniards, seemed to pervade the

whole country. At Oaxaca, Valladolid, Michoacan, and in other places, the people united in demanding their expulsion from the country. Some state legislatures were in favour of the banishment of all indiscriminately ; others were for confining the sentence to the unmarried, and those who had been resident in the country only for a certain period. Some gave authority to the Spaniards to carry away all their property ; others limited the permission. Thus Guadalajara prohibited their removing any property exceeding five hundred dollars in amount.—Early in December, also, a popular commotion was excited in Vera Cruz against the proscribed class, and only appeased by the municipality's yielding to the public voice. Indeed, no alternative seemed left to the unfortunate Spaniards, whom choice or accident had fixed in Mexico, but to escape as speedily as possible from a country, where they and their property seemed devoted as a sacrifice, to appease the popular fury. The latest official act on the subject, which we have seen, is the decree of the legislature of Vera Cruz, requiring all Spaniards, under fifty years of age, or who have not borne arms in the war of independence, with certain specified exceptions, to leave the country within thirty days. There is great cause to apprehend that the public excitement against

the Spaniards, by compelling them to sacrifice their property, and expelling from the country a whole class of persons, may have injurious effects upon the prosperity of Mexico, analogous to those which Spain sustained from the expulsion of the Moors. Indeed, many of the circumstances of the present case are calculated to call to mind the causes and consequences of the other ; and it is therefore to be hoped, that the national congress may moderate, rather than yield, unresistingly, to the pressure of the popular excitement.

Much interest was felt in the trial and execution of Padre Arenas, a native of New Castile, and friar of St. Diego, who was detected in a plot against the republic, in favour of Spain, and condemned to be shot for his treasonable attempt. His ecclesiastical habit occasioned much delay in the execution of the sentence pronounced upon him by the council of war. The Spaniards themselves, during the revolution, were not so scrupulous about forms in putting to death Hidalgo, Morelos, and other priests, who fell into their power. But it is to the honour of the Mexican government, that they allowed the ecclesiastical tribunal to proceed in the regular mode to degrade Arenas, according to the canon law, before ordering his execution. It showed the strength of the administration, which found it unnecessa-

ry to pursue the harsh and hasty measures which disgraced their opponents during the revolution. It is probable, however, that the ecclesiastical courts felt no disposition to facilitate the punishment of Arenas; and the Mexican newspapers complained in no very moderate terms, of the frivolous pretexts, which it was said the ecclesiastical courts availed themselves of to gain time. In consequence of these delays, Manuel Segura, another of the conspirators, who was apprehended long after Arenas, was tried, condemned, and executed, before the proceedings against the latter were brought to a close. Much as we should deprecate the existence of such a system of laws, still we think credit is due to the government, for suffering them to take their course, particularly in such a case.

At length, however, the order for the execution of Arenas was signed, and the time and place for it appointed. At half past twelve in the night, between the 1st and 2d of June, Arenas was divested of his clerical habit, and clothed in lay habiliments; and at one the same morning, he was taken from the prison in a coach, accompanied only by the necessary officers, and a single company of guards, who marched with the greatest silence and circumspection, to the quarters of the horse artillery, where the prisoners received re-

freshments, and religious consolation. Proceeding in the same order, at 5 o'clock A. M. they took the road to Chapultepec, where suitable preparations had been made for the execution. On arriving here, the strength and spirits of the criminal failed him altogether; and being unable to walk from the coach, he was carried, or rather dragged, to the fatal spot, by five of the soldiers, composing the guard, and received the shot in his back. His body, after remaining exposed for three hours as a public spectacle, was delivered up to the monks of his community, and carried by them to the convent of Tacubaya, to be secretly interred. Much dissatisfaction was occasioned by the precautions adopted by the government, to have Arenas executed in private. The populace of Mexi-

had counted confidently upon enjoying the triumph of such a scene; and their disappointment was extreme, when they found that, by reason of the earliness of the hour, and the remoteness of the place of execution, they were deprived of the anticipated gratification. But the course pursued was, evidently, in the existing circumstances of the case, the most politic and humane; and was creditable to the judgment of Sr. Ramos Arizpe, the secretary, to whom the measure was ascribed.

Previous to this time, the arrest

of two generals of division, D. Pedro Celestino Negrete, and D. Jose Antonio Echavarri, accused of being implicated in the conspiracy of Arenas, had taken place; and the circumstances attending it produced great excitement. These officers were both distinguished in the revolution; and although Spaniards, had been active in the cause of independence, and in opposition to Iturbide. On the 21st of March, at midnight, they were both arrested, and sent under a strong guard, Negrete to the fortress of Acapulco, and Echavarri to that of Perote. The opposition papers represented this act as a violent infringement of the laws, and accused the government of violating the constitution, by an illegal arrest. The subject was discussed in the senate, on a complaint of the wife of general Negrete, against the secretary of war, demanding his trial for the alleged violation of the constitution. But the secretary successfully vindicated himself from the charge, by showing, that the arrests would have been lawful, even if made by order of the executive, under the 112th article of the constitution; but that in fact, the two generals were apprehended on the accusations of private individuals, and by order of the competent judicial authorities. And on the 16th of May, the report of a committee of the senate, exculpating the government from all

blame, was accepted by a great majority of that body.

During the months of March and April, a local disturbance occurred in Durango, which, although it threatened serious consequences at first, was easily quelled in the end. On the 10th of March, lieutenant-colonel Jose Maria Gonzalez, commanding the national troops stationed in Victoria de Durango, revolted from the government, and putting himself at the head of a body of the soldiery, opened the prisons, and armed the prisoners; arrested the governor, dissolved the legislature, and established a revolutionary junta, to give their proceedings the form of law. Ill defined rumours prevailed as to their purpose, which was variously reported to be, either the dissolution of the federal system, or the elevation of a son of Iturbide to the throne. Half the state-congress escaped, but Gonzalez compelled the rest of the members to assemble to sit as the true legislative body. The local authorities found it impossible to restore order. They despatched a messenger in secret to obtain succour from the commandant general of the state, D. Jose Joaquin Ayestaran; and a part of the troops, who remained faithful to their duty, marched out to meet him; but they were intercepted by Gonzalez, and compelled or persuaded to join themselves to

his standard. In consequence of this, the members of the legislature advised the governor to desire Ayestaran to retire.

Intelligence of these proceedings reaching the capital whilst congress was in session, that body instantly took effective measures for reducing the seditious soldiery to submission. On the 24th of March, both houses passed a resolution for placing three thousand of the militia at the disposal of the president of the republic, for the pacification of Durango; and declared null and void all the acts and decrees of the authorities of that state, extorted from them by coercion or intimidation. The executive promptly adopted effective measures for bringing the rioters to obedience. General Parres, who was sent against them to restore order, entered Durango on the 11th of April, with a small party of dragoons; and on his appearance, the disaffected soldiers abandoned their leader, Gonzalez, and passed over to the general, with all their officers, except two, who escaped with Gonzalez himself. The insurrection, which had threatened evil consequences to the republic, was thus happily terminated; serving, however, to demonstrate the inconvenience of the large standing army maintained by the Mexicans.

The government easily succeeded, also, in suppressing the idle and absurd movement of those persons

in the Texas, who pretended to affect the separation of that province from Mexico. They found more difficulty in putting a stop to the ravages of the Yaquis indians in the province of Sonora; but this object they finally accomplished. But disorders of various kinds occurred in another quarter of the republic, where a better spirit might have been supposed to exist: We allude to the series of incidents wherein the state of Vera Cruz bore so prominent a part, and which we now proceed to relate.

Political parties in Mexico at the present time are distinguished by the name of the masonic rite, which each is supposed to countenance. Our readers may not all understand that a schism exists among the English masons, who are divided into York masons and Scottish masons, from the respective sources whence they derive their rites. One party in Mexico is called *el de Escocia* or *Escoceses*; the other *Yorkinos*; names having intrinsically about as much meaning as the epithets of whig and tory, which distinguish political parties in England; but possessing, like the last, a very definite application. The *Escoceses* are composed of the higher orders of the clergy, who were bitterly disappointed by the issue of the revolution of Iguala; of the aristocracy; of the monarchists, many of whom would rejoice to see a member of

the house of Bourbon on the throne of Mexico; of centralists, aristocrats in disguise, cloaking their designs under a pretended anxiety for a consolidated republican government; and finally of European Spaniards, who never can be reconciled to a government administered by the native Americans, and whose bigotry and prejudice are now recoiling upon their own heads. The *Yorkinos* are the party of the people, the country, the existing government, and the sincere friends and supporters of the federal system, one of the other guarantees of the republican order, whose cause is that of political and religious freedom. These explanations are necessary to the right understanding of the facts which transpired.

The minister of the treasury, Don Jose Ignacio Esteva, resigned his place on the 5th of March, and soon afterwards received the appointment of intendant of marine, and commissary general of customs in the district of Vera Cruz. His character, capacity, and experience, rendered the appointment peculiarly judicious on the part of the federal government, to whose resort the office and the appointment belonged by the constitution. Esteva entered upon the duties of his office, May 25th. It so happened that a powerful faction of the *Escoceses* was collected in Vera Cruz, who possessed a major-

ity in the legislature of the state, and disseminated the most violent abuse against the other party, through the medium of a scurrilous paper called the *Vera Cruzano*. No sooner had Esteva entered upon the discharge of his official duties, than a special session of the legislature was held, for the sole purpose of passing a decree expelling him from the city. No specific offence was alleged; no forms of examination or other ordinary details were observed; but with a degree of rashness and folly, without parallel in the annals of republican legislation, the decree was hurried through, on no other pretext but the absurd allegation that Esteva was a leading *Yorkino*.

This outrageous act of the legislature of Vera Cruz excited great indignation among all the friends of good order, and of the country. It was a usurpation of authority, which nothing but the most extravagant party zeal could mistake, or pretend to justify. The Mexican constitution is modelled after that of the United States; and the proceeding of the government of Vera Cruz was precisely the same as if, during the party contests in the time of Mr. Jefferson, the legislature of Massachusetts should have passed a sentence of banishment against the collector of customs of the port of Boston, on the ground that, although an amiable, upright, and competent man, he was not a

federalist ; or as if the legislature of Georgia should have deprived the collector of Savannah of his office, because he was not in favour of the Creek treaty. Esteva was unwilling to compromise the public peace, by forcibly resisting the state authorities ; and therefore voluntarily absented himself for a short time from Vera Cruz. On his return to Mexico, the citizens, having obtained intelligence of his approach, went out to meet him in great numbers ; and a large body of the most respectable inhabitants, in carriages, and on horseback, escorted him into the city, in order to testify their respect for his person, and their disapprobation of the illegal act for his banishment from Vera Cruz.

So general, indeed, was the sentiment of disapprobation, that the legislature of Vera Cruz probably began to think they had acted somewhat hastily and unadvisedly. But instead of retracing their steps, they issued an extraordinary manifesto, in which they attempted to justify their conduct, by alleging the pernicious tendency of the rite of York ; which, they said, had proved " more dangerous and destructive than would have done the landing of twenty battalions of Spanish troops in the country." From the introduction of this topic, which no doubt was introduced with that view, the authors of the manifesto took occasion to make an attack up-

on Mr. Poinsett, the minister of the United States in Mexico. The audacity of the attack was only matched by the gross falsehood of the charges it conveyed. With the exception of the remarks aimed at him, the manifesto consists merely of vehement declamation against the *Yorkinos*, and secret societies in general. The legislature of Vera Cruz characterise him as a sagacious, and hypocritical minister ; equally zealous for the prosperity of his own country, and inimical to that of Mexico. " Calculating," they say, " that the aggrandizement and glory of his nation, must be in the inverse ratio of the glory and aggrandizement of the United Mexican States ; so that the former would lose all the latter might gain, and vice versa ; calculating that the agriculture of Mexico must swell its limits so immensely, as to render insignificant, and almost null, that of the north ; provided, Mexico is permitted to move forward peaceably in the new order of things ; calculating, that in time, the commercial and friendly relations between Mexico and Great Britain, might prove disadvantageous to the interests of his country, conceived and brought forth the most terrible and disorganizing project for the republic—the project of propagating and maintaining hatred and want of confidence, and consequently, division and parties, between the simple and worthy Mexi-

cans—he established the rite of York!!!”

To these strange imputations, which, after all, end in a single specific allegation, namely, that Mr. Poinsett established the rite of York, he replied under date of July 4th, in a triumphant exposition of the policy of the United States towards Mexico, and indicative of his own character and conduct. The rite of York existed in Mexico before he arrived there. He found five lodges already established; and he did nothing more than send for charters for them, from the grand lodge of New-York, at their request, and assist at the installation of the grand lodge of Mexico. He entered into an exposition of the friendly spirit always entertained by his country towards Mexico, and the other Spanish American republics; occasioned by its deep sympathy in the cause of freedom, and exemplified in its being the first to recognise the independence of Spanish America. So far were the United States from desiring any exclusive advantage from this, or seeking their own aggrandizement at the expense of Mexico, that their government had been indefatigable in urging England, and other European powers, to follow their example in acknowledging the independence of the patriots. He denied, in the strongest terms, having interfered in the slightest degree with the internal affairs of the republic :

and challenged his accusers to prove that he had ever departed, in word or act, from the circumspection belonging to his functions; admitting, at the same time, that he, and the country he represented, could not but regard, with heartfelt satisfaction, the establishment of republican institutions in the country.

Mr. Poinsett's exposition being written in the Spanish language, and widely circulated in the journals of the country, produced the happiest effect. No American could have been found, more signally qualified in all respects, for the post he fills; and this attack upon his official character, is the clearest proof of the faithfulness and ability with which he represents the United States. The centralists and the monarchical party, seem to insist upon connecting him with the present institutions of Mexico; and thus for no other reason, but because they feel that he and his country must, in the nature of things, be friendly to civil and religious freedom. The fact is, that when Mr. Poinsett arrived in Mexico, the party of the *Escorescos* were in the possession of power. In the ordinary course of things, they gave place to the party which held more liberal opinions, and which gradually rose to the government of the republic, by the operation of the principles of the revolution. The disappointed monarch-



ists imagined they saw in this the direction of some dexterous spirit behind the scenes; although in truth it was only the natural tendency of public opinion in a free country. Mr. Poinsett's exposition, while it completely vindicates him and his country from the charges brought against them, must serve to render the United States more popular in Mexico, by identifying them with the republican party in that country.

Such, indeed, is represented as being the effect of the whole transaction. Efforts had long been making in Mexico, to hold up the United States in an unfavourable light; it being the policy of the monarchists to create jealousy and distrust of a nation which could not be friendly to free institutions. Some of the newspapers had even accused Mr. Poinsett of acting in concert with the Spaniards of the island of Cuba. Vera Cruz, by giving these imputations a tangible shape, enabled Mr. Poinsett to meet them, and thus to create an amicable feeling towards the United States, which did not before exist. A reaction ensued, which rendered the other Mexican states disposed to co-operate with the general government in a proper expression of indignation at Esteva's expulsion, and the subsequent attack on the minister and government of the United States.

At the close of the month, other

incidents occurred to keep alive the popular excitement at Vera Cruz. On the night of July 25th the office of the newspaper called the *Vera Cruzano*, was entered, the cases destroyed, and the types thrown into the street, in revenge, it was presumed, of some political strictures of that violent newspaper, which was a champion of the monarchical party. On the 31st, colonel Rincon, of the garrison, declared himself, with a battalion of his troops, against the state authorities, asserting that he had in his possession proofs of their being engaged in a conspiracy to betray the federal government and the union. What these proofs were, does not appear; but certainly the conduct of the state authorities, had been such as to justify some suspicion of their intentions. Upon this, the governor of the state of Vera Cruz, ordered Rincon to remain under arrest; but the latter refusing to obey, was denounced by the legislature and governor as a seditious insurgent. Moreover, the legislatures of some of the neighbouring states, passed resolutions, approving the doings of the state authorities of Vera Cruz. All parties, however, professed the utmost loyalty to the government of the union. At length, the president of the republic despatched general Vicente Guerrero to Vera Cruz, with adequate powers to restore order. On the 18th of August, at Xalapa, he

issued an address to the garrison, and Rincon and his followers submitted to him without resistance ; and it is said that their conduct was applauded in the Mexican capital.

We ought not to conclude this account of the affairs of Mexico, without observing, that the naval

forces of Mexico, under the command of commodore Porter, have been successfully employed in cruising against the merchant ships of Spain, in the gulf of Mexico, although no general engagement has taken place with commodore Laborde and the Spanish squadron.



## CHAPTER VIII.

*Central America—Constitution of the States—Origin of the Civil Wars—Meeting of an Extraordinary Congress—President Arce convokes a Convention—Disturbance in Guatemala—New Government organized—Salvador makes war upon Guatemala—The Salvadoreños beaten and repulsed—Arce marches against Salvador—The latter submits—Peace restored—Canal of Nicaragua.*

CENTRAL AMERICA has recently been convulsed by civil dissensions of the most alarming character.—They had their origin in events which transpired towards the close of the year 1826, to which it is proper we should revert, in order to lay before our readers a connected and intelligible account of the subsequent incidents. It is to be understood, that, although the federal constitution of the republic was adopted in November, 1821, yet it was some time before the constitutions of the several states were completed. In the United States, the several colonies which composed the old confederacy, and now constitute the federal union, had long been accustomed to the exercise of legislative and executive powers, within themselves. Hence, at the opening of the revolution, the confederated states except Salvador each completed the organization of state governments, more or less perfect; before the federal constitution, which now binds the whole together, was put in operation, or even framed. But in the Spanish American republics, the case was widely different. They had no experience of the exercise of legislative powers, much less any thing precisely corresponding to our colonial divisions. The Spanish American patriots were under the necessity, therefore, of beginning at the very foundation, in the task of establishing an independent government. Instead of organizing state governments, first, which should afterwards unite together to form a general government, the patriots of Central America, for instance, adopted their federal constitution, and carried it into operation, before any one of the confederated states except Salvador had framed a constitution for itself. Hence arose the peculiar

feature of the federal constitution, which prescribes the general outline of the several state constitutions, and on which each of the states built the fabric of its own domestic government, according to its peculiar wants and condition. Salvador established its constitution first, in June, 1824; Costa Rica followed in January, 1825; Honduras in December, 1825; and lastly, Nicaragua, in April, 1826. Hence, at the expiration of 1826, had no extraordinary occurrences transpired, the government could hardly have acquired the easy movement necessary to insure tranquillity.

The first congress of the republic terminated its regular session in June, 1826. By repeated acts of the constituted authorities, for the time being, the seat of the federal government had been fixed in the city of Guatemala. But early in the first session of congress, the inhabitants of Salvador began to manifest a jealousy of the state of Guatemala. They conceived, or professed to conceive, an idea that the principal persons of Guatemala were conspiring with the general government to revolutionize the republic, and to change the federal into the central form. They represented the continuance of the federal authorities in the city of Guatemala as tending to this object, by imparting undue influence to the Guatemaltecos, and

facilitating the absorption of the powers of government into the hands of the supposed central party.

Hence, in March, 1826, the assembly of the state of Salvador, addressed a memorial to the congress, praying that the federal authorities might be transferred to some place at least forty leagues from the city of Guatemala. Soon afterwards, certain inhabitants of the town of Aguachapán, in the state of Salvador, petitioned congress to remove the seat of government within the limits of that state; which was followed by a like petition from the inhabitants of Metapán, in Salvador. However much the Guatemaltecos might be opposed to this change at heart, they declared their willingness to accede to it, if it should be for the public good. Still the congress did not deem it expedient to comply with the wishes of the Salvadoreños.

By an article of the constitution, the senate is authorized to convoke the congress on extraordinary occasions. What these occasions shall be, the constitution does not prescribe, leaving it of course to the discretion of the senate. Exercising this discretion, the senate, by decree of August 25th, 1826, summoned the members of congress to meet in extraordinary session, at the usual place, on the first day of October next ensuing. The decree designated various important

subjects for the consideration of congress, some of which were of a nature to demand immediate attention.

At the appointed time, it seems that only seventeen members of congress appeared to take their seats, although twenty-one are required by the constitution to make a quorum. Of course, the members assembled could not regularly perform any acts, except such as related to the organization of their body. On examination, it was found that of the absent representatives, seven belonged to the state of Salvador. The members assembled immediately took measures, as usual in such cases, to require the attendance of a sufficient number to constitute a quorum. Several of the absent deputies alleged sickness as the cause of their detention. But two deputies from the state of Salvador, Marcelino Menendes and Buenaventura Guerrero, openly signified their determination not to attend. Menendes, particularly, referring to the previous attempts of Salvador to procure the removal of the seat of government, said he should not attend until the transfer took place. He alleged also, that the congress was illegally convoked, because, as he pretended, none of the subjects, set forth for its consideration by the decree of the senate, came within the constitution, as a description of extraordinary oc-

casions. The legislature of the state of Guatemala, hereupon, alleging apprehension of hostile intentions on the part of Salvador, which the language of the Salvadoreños, respecting the seat of government, partly justified, ordered a body of militia to be raised, by the name of defenders of the constitution.

Congress continued its preparatory sessions, from day to day, until October 10th, when a decree of the president, Arce, was communicated to that body; which gave a new turn to the course of events. Its preamble recited the public grievances, which called for the decree; such as the disorganization of the state of Honduras; disturbances in that of Nicaragua; attempts made by the government of Guatemala to usurp the powers of the republic; and other subjects, requiring the interposition of some authority, superior to what the executive possessed. It farther alluded to the conduct of the delegations from the state of Salvador, in withdrawing themselves from congress; and stated, that as the senate of the republic had not the constitutional number of members, this body was incompetent to afford relief in the emergency. For these reasons, the decree convoked an extraordinary national congress, to be fully authorized by the people to re-establish the constitutional order, and to provide for the necessities of the

republic, by all proper means within its power and wisdom ; to consist of two representatives for every thirty thousand inhabitants : and to be installed in the town of Cojutepeque, so soon as a majority of all the delegates should have assembled. "Meantime," (the decree further provided,) "the executive will defend, with all his power, the free use of his power; and will guarantee individual security, without departing from the federal constitution, and the laws in force. He will preserve order; and will answer for his conduct, and for all the measures which the preservation of public tranquillity exacts, before the extraordinary national congress."

This decree being referred to a committee, they reported, that it was an arbitrary violation of the constitution. They charged the president with having used his influence to prevent the organization of congress, in order to escape being called to account for irregularities in the public expenditures. They alleged, that no legitimate cause existed for the extraordinary congress; which was, they said, merely a device of the president's to screen himself from responsibility to the constitutional authorities. They concluded, by declaring, that the decree ought not to be observed; and in this opinion all the members present concurred, although three of them objected to

the form of the report. A few days afterwards, the supreme court of justice published a declaration, that the president had openly infringed the constitution, by refusing to recognise the constitutional congress, and convoking another at his arbitrary will.

If the design of the president in issuing the decree, as imputed to him by the committee of congress, was to disorganize the republic, his success was complete. If, on the contrary, in doing it, he sincerely aimed at the public good, the measure was ill-judged, and the result was most unfortunate; for it greatly augmented the dissension, which previously existed. Guatemala proceeded to elect representatives for the extraordinary congress; and Costarica determined to do the same. In Honduras, and Nicaragua, opinions were divided; the government opposing the adoption of the decree; but many towns, districts, and departments, declaring in its favour. In Honduras, the departments began to separate, and to resist the authority of the supreme chief or governor. But the people and government of Salvador declared against the decree; and, to fill up the measure of irregularity, while the state of Salvador were crying out against the act of the president, they despatched letters to the states of Honduras, Nicaragua, and Costarica, inviting them to concur in assembling the ordin-

by federal congress at Aguachapán, and to unite their military forces with those of Salvador, for the purpose of sustaining the constitutional representation. If it was unconstitutional for the president to convoke an extraordinary congress, it was not the less so for one state, or four states, to undertake to assign the time and place of assembling the ordinary congress, and to organize a military force to accomplish their object.

Previous to this, events had occurred in the state of Guatemala, which tended greatly to aggravate the public disorders already explained. In the contradictory accounts which are given of the motives and intentions of the parties, it is no easy matter to ascertain the truth, without fuller intelligence than has yet reached this country. But the facts stated are, that Barrundia, governor of the state of Guatemala, in September, 1826, arrested one Espinola, a military officer in the national service, on the charge of having forcibly entered houses with a picquet, without warrant from the civil authorities. A dispute, which ensued in consequence, between Barrundia and president Arce, terminated, it is said, in the seizure by the latter, of the arms belonging to the state, and the suspension of the governor's functions, which devolved on the vice-chief, Cívilo Flores. Soon afterwards, this magistrate, who is

described as a person of good family and character, and liberal in his political principles, was attacked by a low mob, in the province of Quezaltenango, in the state of Guatemala, and cruelly murdered, in some ebullition of misguided popular resentment.

The government of the state of Guatemala being disorganized by these events, the president of the republic issued a decree, under date of October 30th, 1826, ordering the government to be reorganized by popular election. This was accordingly done in the forms of the constitution, the legislative and executive authorities being duly elected by the inhabitants of the state. The government of Salvador afterwards complained of this, also, as illegal; but, at the time, they urged the president to adopt this course, and even sent him military forces to aid him in this among other objects. The new legislature commenced its sessions with the year 1827: but the election of supreme chief or governor was not completed until the month following. In reading the inaugural address of this magistrate, Mariano Aycinena, installed March 1st, 1827, it is grateful to observe a quotation from Washington's Farewell Address, introduced by these words: "Let us remember what is said by the immortal Washington, the father of the American republics." If the nations of the



South had more carefully observed the precepts of this Father of the American Republics, they would not have exhibited so many examples of fatal anarchy and civil discord.

No sooner was the new legislature organized, than the provisional governor communicated the intelligence to all the other states, under the date of January 7th, 1827. Shortly afterwards, the government of Guatemala invited those of Salvador and Costarica to unite in adopting the requisite measures for terminating the dissensions, with which Honduras and Nicaragua continued to be still afflicted. The state of Guatemala did not stipulate for concurrence in the extraordinary congress; but proposed, if more agreeable to the government of Salvador, to proceed to the election of new members for a constitutional congress, objecting only to submitting to the authority of the members assembled in October, who, as the Guatemaltecos said, had greatly contributed to the existing difficulties. The federal authorities, and those of the state of Costarica, indicated a disposition to view the proceedings in Guatemala favourably. But the state of Salvador did not vouchsafe even to reply to the two communications. The government of Guatemala then addressed a third communication to Salvador, early in February, annexing a copy of those

which had preceded it. For answer to this, Guatemala received a communication from Salvador, which explained nothing of itself, but referred to a certain decree of the state assembly, said to form a part of the communication, but not in fact accompanying it. Upon this, the government of Guatemala, charitably supposing, or acting upon the supposition, that the omission was accidental, sent to request of Salvador a copy of the decree: but to this request no answer was returned. Private letters from Salvador, however, confidently assured the Guatemaltecos that the omission was designedly made.

It is natural to suppose that the people of Guatemala were greatly displeased and irritated by this disingenuous mode of proceeding. But even while the communications above described were passing between the two states, Salvador had been preparing to commence hostilities. She assembled troops, and caused them to be marched towards the territory of Guatemala, evidently threatening military occupation of the department of Chiquimula, belonging to Guatemala. But the people of Chiquimula took arms to resist the aggression; and, aided by the troops of the confederacy, held the Salvadoreños in check. The latter continued cantoned in Metapam and Santa Ana, gradually accumulating and concentrating their forces upon posi-

tions convenient for entering the territory of Guatemala. Having been unsuccessful in their attempts upon Chiquimula, whose inhabitants, guided and animated by their civil chief, Indalecio Perdomo, had compelled the aggressors to relinquish their enterprise in that quarter, the Salvadoreños next conceived the bolder design of attacking the city of Guatemala itself. They alleged their aim, in this absurd movement, to be the suppression of the supposed central faction, and the pretended enemies of the federal constitution. But unfortunately for their cause, they thus became voluntary assailants. This measure threw them into a state of open warfare, not only with the executive authorities of the republic, whom they accused of dishonest ambition; but also in opposition to the powerful state of Guatemala: and their failure was therefore as signal as their undertaking had been precipitate and violent.

Guatemala lost no time in preparing to meet her enemies, who united rebellion against the general government to invasion of a confederate member of the union. The supreme chief of the state, Aycinena, issued a manifesto, in justification of the conduct of his government, explaining the efforts which it had made to avoid hostilities; and the necessity which it was now under of arming in self-

defence. On the sixteenth of March, the supreme chief announced the approach of the hostile forces. The legislature of Guatemala immediately invested the state executive, with all the requisite powers for defending the capital, placing all the authority of the government in his hands, only recommending to him to co-operate with the president of the republic, in making common cause against their common assailants. The government earnestly called on the citizens to come forward in defence of their homes and their lives, and soon found ample resources in men, money, and munitions of war, at their command. Their military force consisted of the troops of the confederacy, the militia of Guatemala, and a numerous volunteer corps. The greatest enthusiasm, in vindication of their rights, appeared to pervade the whole community. Daily enlistments in the regular army, and in the volunteer corps, continued to augment them, and placed them upon a respectable footing previous to the appearance of the Salvadoreños.

The troops employed in this expedition by the state of Salvador, were estimated at twelve or fourteen hundred men, commanded by Nicolas Raon, and Isidore Saget, foreigners, of French origin, possessed of some military knowledge and experience; and by Cleto Or-

doñez, a citizen of the state of Salvador. They came in sight of the city March 22d, and after a slight skirmish, and an ineffectual attempt to throw themselves between the national troops and the capitol, fortified a position upon the heights in the neighbourhood. Colonel Ordoñez, as commander in chief, addressed a proclamation to the citizens of Guatemala, assuring them that his object was only to free them from the yoke of the *chape-tones* : and exhorting them to make no resistance. In this position they sustained a vigorous attack, made by the national troops and forces of Guatemala, commanded by the president ; and after an action of two hours duration, were totally routed and driven from the field in complete disorder. They endeavoured, at first, to make good a regular retreat ; but receiving intelligence of the approach of colonel Sanchez, with the troops of Chiquimula, their retreat was speedily converted into a precipitate flight among the mountains : and thus terminated this ill-judged and insurrectionary movement against Guatemala. Although the loss on the side of the repulsed Salvadoreños was not great, since it amounted to only seventy killed, with a number of prisoners and two field-pieces, yet the victory was justly hailed by the conquerors as a triumph of the highest importance. It was celebrated in the

city with extravagant rejoicings ; and congratulations upon the result, poured in from the other departments of the state.

The next day the president issued a proclamation, announcing his determination to reduce them to submission by force, if they did not voluntarily lay down their arms. It is unnecessary to particularize the various regulations adopted for the security of the city, and the maintenance of public order during this season of confusion and calamity. Suffice it to say, they were such as the exigency required. The government also deemed itself justified in declaring, by name, certain citizens of the state of Guatemala, who had been active in exciting the state of Salvador to this expedition, to be outlaws and public enemies ; and denouncing the same fate against all others who had aided and abetted them, unless they should render in their submission within a given time.

The cause of the federal authorities was now completely triumphant. The president, leaving the civil functions of the general government in the hands of the vice president Mariano de Beltranena, and devoting himself to the command of the army, proceeded to collect forces for the purpose of pursuing the flying insurgents, and reducing St. Salvador itself to submission. He could rely upon

the co-operation of the states of Guatemala and Costa Rica ; and by their firmness and sacrifice, could hope to restore tranquillity in the rest of the republic. The districts of Sonsonate and Santa Ana, speedily gave in their adhesion to the authority of the president ; and Honduras did the same. But the majority of the people of Nicaragua continued in a state of insubordination ; and Salvador prepared to defend herself, should her ill-judged attack on Guatemala be retorted upon her. Meanwhile, the vice president, on assuming the reins of government, had addressed a communication to the authorities of the state of Salvador, exhorting them to withdraw the invading forces from the territory of Guatemala. The vice president professed to be impartial, and uncommitted by any of the previous difficulties. His influence, therefore, could not fail to be useful in strengthening the cause of constitutional order. Of course, the victory obtained by Arce, seemed likely to be followed by very important consequences. Indeed, considering the small population, and the narrow resources of the country, and its short standing as a nation, the battle fought near Guatemala, was of a nature to exercise as much influence over the condition of the states of Central America ; as a more bloody en-

gagement would have done in other countries.

By the middle of April, Arce was at Santa Ana, with a body of 3000 men, on his way towards the city of St. Salvador. Guatemala was quiet, and well guarded by its inhabitants, whose military organization it was thought proper to maintain, notwithstanding the repulse of the Salvadoreños, until affairs should become settled. Forced contributions imposed by the government, had been levied on the foreigners resident there, as well as the citizens. Before the close of the month, Arce reached Nejapa, a village distant only four leagues from St. Salvador, with an army well disciplined and equipped ; and opened a negotiation with the city authorities, upon the basis of assembling a new congress and senate to adjust all differences, and re-establish the constitution. But the negotiations miscarried, because the citizens of St. Salvador demanded as an indispensable condition of peace, that the national legislature should be convoked in the city of St. Salvador, among other things equally inadmissible in the opinion of the government ; and the two parties retained their hostile attitude until late in the summer. A repulse was suffered by the president, during this time ; but he was generally successful, and the cause of the insurgent

party at length grew so desperate, that in June colonel Raoul, who had acted a prominent part in all the troubles, deserted his party, and submitted to Arce. In him, Salvador lost one of the few military men upon whom she could rely. His desertion was probably occasioned by the complete anarchy which reigned among his former associates, who held out but a short time longer against the national troops. When the government obtained possession of St. Salvador, the rebellion might be considered as completely quelled. Some of the leaders of the revolt were shot, and others pardoned on various conditions, according to particular circumstances. And thus, by the salutary union of clemency and rigor, the civil war was wholly terminated by the end of August ; and tranquillity restored, at least for a season, to this distracted country.

It is worthy of note, in concluding our account of these unfortunate disturbances, that foreigners appear to have been most active in exciting the revolt, and hurrying the state of Salvador into the first acts of hostility. Further intelligence will better develop the character of the war, and enable us better to appreciate the character of the opposite parties. The inhabitants of Salvador uniformly alleged, that their sole inducement for taking up arms, was their apprehensions of

the designs of Arce and his friends, whom they identified with the servile party, the old Spanish interest, and the clergy. There surely could be no well grounded fears of the restoration of the Spanish authority itself. Whether the president entertained the design of subverting the federal government, and substituting a central one in its place, must remain for time to show. Well informed persons from Guatemala have affirmed, at any rate, that the defeated Salvadoreños, instead of being criminals and rebels, were, in fact, genuine patriots and republicans, and the friends of the constitution. Their opposition to Iturbide, when he extended his usurped authority to Guatemala, and their being the foremost to organize a republican state government, would seem to countenance such a belief.

It is plain, also, that Arce's decree for convoking an extraordinary congress, issued at the very time when the constitutional congress was in session, and was deciding the means to assemble a regular quorum, was not such a measure as the chief magistrate of a well ordered republican government would have proposed, and endeavoured to enforce, against the protest of the constitutional congress, and of the supreme court. An English newspaper, published in Honduras, whose editor warmly advocated the cause of Arce, and the party of the general govern-

ment, states his belief, that the most respectable, and the most numerous portion of the people of Central America, would have preferred a limited monarchy to the existing republican institutions. We cannot credit this representation; and at any rate, if it be true, and if the views of Arce were opposed to freedom, the patriotic party should have met their opponents in the legislature, instead of in the field; and in a peaceful and temperate manner, shown wherein their liberties were invaded, and their rights infringed. And if the Salvadoreños, were truly the friends of liberty, they may impute to their own indiscreet zeal, which included their precipitate appeal to arms, and hurried them into a civil war, the ascendancy of the opposite party. But we have no doubt, that the disturbances are to be ascribed to the extreme ignorance of the people, their vague ideas of liberty, and ignorance of the forms of a free government; and the hostility of the *castes* against the white population, who hold the reins of government, rather than to any criminal designs on the part of president Arce.

The project of an oceanic canal through the lake of Nicaragua seems to have been relinquished, at least for the present; from causes independent of the political troubles in Central America. An attempt was made by a company of merchants of New-York, to obtain a contract

for this canal; and Mr. Edmund Blunt, of that city, went out in 1825, to survey a route for, and to ascertain the practicability of a canal. The jealousy of the public authorities prevented him from commencing his surveys, until the rainy season rendered it unsafe to explore the country. Notwithstanding those difficulties, the examination of a route was undertaken and completed, excepting about 7 miles, when he was attacked by the fever of the country, and compelled to relinquish the survey. Enough, however, was obtained, to prove the feasibility of effecting a water communication between the two oceans; but on account of the extravagant terms offered by colonel De Beneski, and the unsettled state of the country, the project was given up.

This contract was made in June, 1826, between the government of the country, and colonel De Beneski, acting in behalf of Mr. Palmer, of New-York; and ratified by the congress. But it encountered considerable opposition, even in Central America, where it was justly objected, that the contract was altogether premature. No surveys had been made, on the part of colonel De Beneski, or of the government, of the river St. Juan, the lake, or of the lands intervening between that and the ocean; all which lay in the proposed line of water communication across the isthmus. Nor in fact was any accurate knowledge

of the country possessed by them. Before the contract could be made upon any well founded calculations, all this, and much more, should have been ascertained, in order to judge, whether the construction of the canal was practicable, and its cost. The singular inexpediency of placing such a canal in the hands of foreigners, however friendly they, or their nation, might be, was very strongly urged. Still the contract was ratified, but in such terms, as amounted to a virtual rejection of it.

Proposals were also made by Messrs. Barclay, of London, as well as by Mr. Palmer, of New-York. The first stipulated for the exclusive privilege of navigating the canal with steam-boats, for thirty years; for the possession of all the tolls, until the capital invested should be reimbursed; and of one half of them for fifteen years afterwards. Add to this, the capital invested was to be assumed by the nation as a debt, and paid to the

contractors by the government of Central America, unless the profits of the canal should suffice to reimburse the undertakers. It is evident, that the safety of this contract would depend, in a great measure, upon the stability and solvency of the government. The terms of the contract, as concluded with Mr. Palmer's agent, were vastly less favourable to him. He was to have a privilege for steam-boats for only twenty years; and half the tolls for but seven years. The government assumed no responsibility for the expenses of the works. On the contrary, the contracting company was to advance two hundred thousand dollars immediately for fortifications; and to be subject to further advances, without limitation, trusting for repayment solely to the expectation of future profit. It became, of course, impossible to obtain subscribers to the stock on these conditions; and the contract was not performed, as might have been expected.

## CHAPTER IX.

*Colombia.—Government in 1827—Santander's Message—Foreign Relations—Treasury—Army and Navy—Capture of Benavides' party—Bolivar in Bogota—State of Things in Venezuela—Bolivar at Puerto Cabello—Paez submits—Bolivar at Caraccas—Renounces the Presidency—Mr. Watts and Bolivar—State of things in April and May—Bustamante's return from Peru—Proceedings at Guayaquil—Third division of the Army—Their views and object—They submit—Bolivar prepares to march against them—His intentions—Congress meets in May—Santander's resignation refused—Speeches in Congress, of Soto and Uribe, concerning Bolivar—His renunciation not accepted—Decree of Amnesty—Re-establishment of public order—Grand Convention—Apprehensions entertained of Bolivar—Communication of the city of Panama—Pretended Conspiracy at Bogota—A groundless fabrication—Vindication of Santander—Falsely accused by the Reform Party—Concordat with Leo XII—Insurrection at Guayaquil—Bolivar's message to the Senate—Entry of Bolivar into Bogota—Swears to the Constitution—Proceedings of Congress—Decrees on the Press—Earthquakes—Concluding Reflections.*

At the beginning of the year 1827, the executive authority of Colombia, continued to be administered by the vice president, Francisco de Paula Santander, the president and liberator; Bolivar, being exclusively employed in the pacification of the northern departments. The department of foreign relations, and of the interior, was at that time administered by Jose Manuel Restrepo; that of the treasury by Jose M. de Castillo; and that of war, by Carlos Soublette.

In September of the preceding year the department of the marine, having been separated from that of war, had been intrusted to general Lino de Clemente; but on the arrival of Bolivar at Bogota, in November, among the other measures of economy and reform then adopted, the marine was reunited to the department of war, under the administration of Soublette.

According to the existing laws of the republic, the fifth session of congress should have been opened



on the second day of January, and on the same day the functions of the president and vice president would, in the regular course of things have ceased. But the peculiar circumstances of the nation at that time, prevented the assembling of the legislative body until May. In order, therefore, to preserve the government from absolute disorganization and anarchy, or from some equally deplorable alternative, it was necessary that the existing executive authorities should assume to retain the direction of the government. In the exercise of his extraordinary functions under the constitution, Bolivar had therefore suspended the law, which would have vacated the government at the ordinary period. The vice president, Santander, felt that, amid the perplexing difficulties of the times, he ought not to oppose the dispositions of Bolivar, and thus increase the public disorders. It was considered, also, that his continuance ~~in office~~, although not qualified anew according to law, was the least illegal course that could be pursued in the actual crisis.

The message of the vice president, and the annual expositions of the several heads of departments, were prepared, for the purpose of being presented to the legislative body at the usual time, although they could not be presented, in fact, until May. These docu-

ments are drawn up with more than common care; and enter very fully into the condition of public affairs in Colombia. Before proceeding to narrate the events of the year, we think it well to promise a general account of the state of things at the close of 1826, collected from a source so entirely authentic, as these important state-papers.

Notwithstanding the calamitous effects which the insurrection of Paez had upon the internal condition of Colombia, happily it did not immediately prejudice any friendly relations which previously existed, between the republic and foreign powers. Those governments, which, from their similarity of condition and origin, were the natural allies of Colombia, such as Mexico, and the other Spanish American states, not only maintained towards her the same amicable feelings; but some of them entered into still more intimate union with her, at the congress of Panama. Representatives from Central America, Peru, the Mexican states, and Colombia, assembled there in June, 1826; and although their session lasted but a few days, yet, by assiduously devoting their time to the great objects of the meeting, they completed a treaty of perpetual union, league, and confederation; and several subsidiary conventions, of which the particulars are given by us in another place. Friendly

connexions had also been cemented, with more or less formality, between Colombia and the governments of Brazil, and Rio de la Plata; but the negotiations with Chili still continued unfinished, the latter not having yet ratified the convention concluded in 1822, and accepted by Colombia. Nor had any thing occurred to interrupt the good understanding of Colombia with the United States, and Great Britain.

But the commotions in Venezuela had undoubtedly impeded the exertions of England and America, to induce the court of Spain to acknowledge the independence of the patriots. The executive of Colombia had succeeded in persuading the most respectable governments to take interest in their negotiation; and previous to the movement of Paez, it was furthered by weighty arguments, drawn from the growing strength and good order of the republic, and the apparent stability of its republican institutions. These arguments were no longer available; for the Spanish cabinet had naturally recovered its lost hopes of successful invasion; and on hearing of the disorganized state of the nation, could not but anticipate some benefit from the prospect, that Colombia was about to be plunged into a civil war. But the executive relied upon the force of the public sentiment, and the tried valour of the army, for means to

repel any attempted invasion. Absorbed also, as Spain was, by its own domestic cares, and deprived of the important posts of Ulua, Callao, and Chiloe, there did not seem to be great danger of immediate hostilities from that quarter.

France had made the same attempt, which we have noticed in the account of Mexico, to obtain for a commercial agent appointed by a subaltern authority, the same rank and privileges which he would have been entitled to, if commissioned by the king himself. The government of Colombia, well aware that such a proceeding was not recognised by the law of nations, however desirous to form amicable relations with France, very properly refused its countenance to this disingenuous mode of indirectly obtaining the advantages of a friendly power, without admitting the political existence of the republic.

Previous to the unfortunate events of April, endeavours had been made to place the finances of the republic on a respectable footing; but those disturbances had reduced the public funds to the very lowest degree of depression. The moral force of the law and of the government being relaxed, and the taxes having become odious, the treasury received no revenue, and the executive was daily called on for payments, in the ordinary course of public expenditure, which it was utterly impossi-

ble to meet. When the municipality of a city undertook to assemble and annul the laws, or abrogate the constitution, it was not to be expected that the system of finance could be regularly enforced, so as to enable the government to discharge its pecuniary obligations.

It is honourable to the Colombian army, that so small a portion of it was infected with the disorderly spirit, which animated Paez and his deluded followers. Subordination, indeed, to the authority of their generals, distinguished the great body of the troops; although in some cantons the soldiery took advantage of the facilities for concert and united exertion which an army affords, to interrupt the course of the laws of their country. A portion of the Colombian troops still remained in Peru, and another in Bolivia. Other portions had been put in motion for the purpose of being concentrated upon the departments where the disorders existed, in case Bolivar should find it necessary to employ force in the restoration of the public tranquillity. The bulk of the army exhibited the greatest alacrity in marching in defence of the constitution; and previous even to the arrival of the Liberator in Caraccas, two considerable bodies of the troops stationed in Venezuela, had declared against Paez. And we shall presently see, that during the events of 1827, the troops were not actuated merely by a blind devo-

tion to Bolivar, upon these occasions; because the auxiliary army, which returned from Peru, manifested, at one period, as much opposition to his alleged ambitious designs, as did the most upright of the Colombian patriots.

Bolivar's decisive measures for curtailing the public expenditure, adopted during his temporary presence at the seat of government in November, had interrupted the preparations for equipping the naval forces of the republic in Carthagena. He reduced the number of armed vessels, for the sake of immediate economy. But the agitated condition of the country, by cutting short the public revenue, had already arrested the efforts making to equip a squadron for the purpose of joining the Mexicans in offensive operations against Spain.

Among all the misfortunes which befel the republic, towards the close of the year 1826, one happy event deserves to be mentioned, namely, the entire pacification of the province of los Pastos. This may be considered as the last scene of a war of seventeen years, which the Colombians had waged against the Spanish influence, within the borders of their country. Forty officers and soldiers, commanded by the robber Benavides, who had so long preserved the last relics of the Spanish party, amidst the wild regions of los Pastos, were captured in November, 1826, by colonel

Jose M. Obando, the governor of the province, and suffered the punishment of death, which they so richly merited for their numerous crimes. The industrious people of that agricultural district, were thus relieved from the scourge of war. Indeed, the followers of Benavides might rather be considered a troop of banditti, than a band of royalists; because all interest for the king of Spain seemed, independent of them, to be wholly extinct. During the agitations, occasioned from one extremity of the nation to the other by the treasonable resistance of Paez to the summons of the senate, not a movement was made, nor a single voice raised, in favour of Spain, throughout the whole extent of Colombia.

Having thus glanced at the general condition of Colombia at the close of 1826, we proceed to resume the narrative of events at that period, where we left it in the history of the last year. Bolivar had then reached Puerto Cabello, without meeting with the slightest resistance in his progress through the insurgent districts. During his brief stay at Bogota, he resumed the government for only two days, for the purpose of introducing various economical regulations already alluded to, in virtue of the extraordinary powers which he had assumed under the constitution. At that time he published a decree, which the public functionaries of

Colombia may be pardoned for calling immortal, when we consider, that in it he declared that he entered on the exercise of his extraordinary powers, in strict obedience to the constitution, which he pledged himself to preserve unchanged, until the nation should, by legitimate means, reform it; signifying also his determination to enforce the laws of the land, except where the dangerous crisis then impending required their suspension.

He arrived in Venezuela at a time so critical, that the least further delay would have occasioned all the horrors of civil war. Blood had been shed already in Cumaná. The secession of Puerto Cabello from General Paez, had exasperated the insurgent chief; and all the movements of the opposing parties assumed an alarming aspect, foreboding the approach of actual hostilities. A column of six hundred men, commanded by colonel Cala, occupied Varinas, the 26th of December, for the purpose of enforcing the new order of things at the point of the bayonet; but in three days they evacuated their position, and retreated. Another body of Paez's cavalry, undertook to bring to submission the canton of Mantecal, which had declared itself for the constitution; but the timely interposition of an officer of Bolivar's, prevented the evil, which otherwise must have ensued: for colo-

nel Inchazu, an officer of tried fidelity and courage, placed himself at the head of the cantons of the Mantecal, Guadualito, and other towns in Apure, prepared to support the constitutional cause. In the west of Venezuela, also, the cantons of Tucuyo and Barquisimeto, of Araure, and others, declared themselves for the Liberator; who despatched a body of troops under general Rafael Urdaneta, to support them; and also, to reduce to obedience, by force of arms, those towns which should not voluntarily send in their submission. He himself, having stopped at Maracaibo, to make the requisite arrangements for marching up a strong military force, to be in readiness if their aid should prove necessary, issued the decrees which was published last year, commanding the immediate cessation of hostilities, and declaring the departments of Salia, Orinoco, Venezuela, and Maturin, to be under his immediate authority. By the suavity and lenity of the measures he pursued, he happily arrested the progress of civil war, re-established the dominion of the laws, and restored peace to Colombia.

Bolivar reached Puerto Cabello December 31st; and immediately issued a decree, dated January 1st, 1827, giving assurance of a general amnesty for all acts done, or opinions expressed, with reference

to reform, during the late troubles; and guaranteeing the persons, property, and offices of all individuals committed therein;—in token of which he continued Paez in command of Venezuela, under the title of civil and military chief; and general Santiago Maviño in the command of Maturin. He further ordered all persons to submit to his authority as president of the republic, denouncing severe punishment against all subsequent acts of hostility. Finally, he renewed his promise of calling the grand convention of the nation. Paez at this time had his head quarters at Valencia. He received the decree the next morning, and the same day issued a proclamation, announcing his receipt of Bolivar's decree of amnesty of the day before; and declaring his unqualified submission to that decree in all its parts; and his acknowledgment of the president's authority. In consideration of Bolivar's engagement to assemble a convention, he annulled and revoked his decree of December 13th, for convoking an assembly of Venezuelians alone in the city of Valencia. In conclusion he said: Congress having decreed the honours of a triumph to the Liberator, whenever he should return from Peru to the bosom of his country; and it being a delightful and sacred duty of Venezuela, to confer this homage on the most illustrious child of her af-

sections, the towns through which he shall pass, ought to prepare to receive him with the majestic pomp belonging to a ceremony invented by antiquity in demonstration of the national gratitude, justly due to heroes, the benefactors of the human race, and the founders of liberty. In the department of Maturin, also, the authority of the president was immediately recognised by general Marino.

Bolívar very properly considered the insurrection to be now at an end, so far as regarded any cause of apprehension of actual war, in the disturbed departments. The proclamation issued from his headquarters in Puerto Cabello, the 8th of January, expresses this sentiment, in the declamatory and exaggerated idiom, peculiar to the Spanish language. "Inhabitants of Venezuela, Apure and Maturin," he said, "the dominion of evil is at an end. One of yourselves brings you the olive branch, that under its shade you may celebrate the festival of liberty, of peace, and of glory. Let us sink the year twenty-six in the abyss of time; may a thousand ages sunder it from us; and may it be lost for ever in remotest darkness. I retain no remembrance of what has passed. Colombians, forget the events of the days of sorrow, and let silence blot them from your memory." Indeed, some enthusiasm of expression, may be permitted to the Libe-

rator, on the peaceful termination of a series of disorders, which threatened the most tragical issue, and, as it is, inflicted a deep wound upon the prosperity and character of Colombia.

Very shortly afterwards, Bolívar and Páez met; and the republican party could not fail to observe, that, to outward appearance at least, the liberator greeted the rebellious chieftain with all the cordiality and confidence belonging to faithful and obliged friends, bound together by reciprocal services already performed, and by the stronger ties of reciprocal services, expected for the future. The speeches, ceremonies, and festivities in honour of a meeting, which followed Páez's unpunished assault on the constitution of his country, could not have been very essentially different, if they had been designed to celebrate a victory over the Spaniards. Standing alone, this circumstance might have been ascribed to the merciful line of policy adopted by Bolívar; but connected with other events, it acquired fearful importance in the sequel.

In concluding the account of the insurrection of Páez, we should observe, that in the progress of the affair, its whole character and complexion underwent a complete change. Originally, we apprehend, the immediate object of Páez, and of his adviser, Peña, was merely to screen themselves from

the inconvenience of trial for alleged violations of law, and perhaps of ultimate punishment. An ardent, imperfectly educated, but uncommonly successful soldier of fortune, Paez yielded to the first transports of anger, occasioned by the notice of his impeachment, and bad advisers being at hand, rashly raised the standard of revolt. Nothing is more deeply to be regretted. We fully believe, from a careful examination of all the documents published by the executive on the one hand, and by Paez in his justification on the other, that he never could have been convicted of any criminal act, on a fair investigation of the circumstances attending the enlistment at Caracas. Of course, had he nobly committed his fate to the laws of his country; had he immediately repaired to Bogota, and demanded to be fairly tried and confronted with his accusers, the result, in our opinion, would have been a triumphant vindication of his official character. Insinuations, we know, are not wanting, that the violence committed in Caraccas, at the enlistment of the militia, which gave rise to the complaint and impeachment of Paez, were voluntary acts, on his part, perpetrated in concert with Bolivar, for the purpose of organizing the republic, and preparing his elevation to the dictatorship of Colombia, Peru, and Bolivia. But these imputations are entirely

without direct proof; and although many suspicious circumstances, bearing upon this point, have transpired, yet we hesitate to believe in a charge so fatal to the fame of Bolivar, without some evidence more specific than mere presumptions, however plausible. It is more credible, that the beginning of the insurrection, the first voluntary act of disobedience to the laws, on the part of Paez, was his assumption of authority on the 30th of April, after receiving the announcement of his impeachment, and consequent suspension from office. No doubt the discontented, and the factious in Venezuela, gladly seized hold of this inviting occasion, to urge their plans of reform; and all the subsequent events were but the natural consequences of the impulse thus imparted to the insurrection.

Bolivar entered the city of Caraccas the 26th of January, being received there, and at every village on his way thither from Valencia, with the liveliest demonstrations of sincere enthusiasm. He adhered, religiously, to his conciliatory plan, and carefully abstained from exhibiting any distrust of the intentions of the people, or doing any thing which could tend directly or indirectly to prolong division and ill will. Not only did he follow this object intently himself, but he induced the magistrates, the press, and private individuals, to

co-operate with them efficaciously, in the same design ; although afterwards, it is true, he permitted, if he did not encourage, the publication of newspapers under his own eyes in Caraccas ; which, however conciliatory their tone towards the Venezuelians, were dishonorably signalized for their bitterness of invective towards all who opposed the introduction of the Bolivian code into Colombia. He ordered all things to be restored to precisely the same condition they were in at the end of the preceding April ; and not only required obedience to the laws previously in force, but also promulgated and enforced those which, having been since enacted, had not been acknowledged or obeyed in the revolutionized departments.

Such was the state of things at Caraccas in January, while at the other extremity of the countries subjected to Bolivar's power, in the city of Lima, the Peruvians were engaged in subverting his authority, and establishing a free government of their own in its place. It will be readily conceived, that the knowledge of this event spread universal joy at Bogota. The citizens of this place had seemed hitherto to be alone faithful to the cause of liberty. They found themselves happily disappointed. The people collected in the streets, which resounded with music, the

peals of bells, and *vivas*, to the constitution, to Santander, and the Colombian officers in Peru.

But ere this intelligence had reached Caraccas, Bolivar had addressed a letter to the president of the senate, dated February 6th, renouncing the presidency of the republic. After alluding to the late disturbances, to his having been re-elected president, and to his endeavours, since his return from Peru, to restore the public tranquillity, by the exercise of extraordinary powers, he proceeds as follows :

"I beg of congress to cast a regard upon the situation of Colombia, of America, and of the entire world. Every thing seems to flatter us. There is not a Spaniard on the American continent. Domestic peace has reigned in Colombia since the commencement of the present year. Many powerful nations recognise our political existence, and some are joined to us in the bonds of amity and friendship. A large portion of the American states are in alliance with Colombia ; and Spain is at present menaced by Great Britain. What more can we hope for ? The womb of time can alone contain the immensity of happiness which has been prepared for us by a bountiful Providence, in whom is our only reliance. As for me, suspicions of a tyrannical usurpation rest upon my name, and disturb the hearts of the Colombians. Repub-



licans, jealous of their liberties, cannot consider me without a secret dread ; because the pages of history tell them that all those placed in similar situations, have been ambitious. In vain do I wish to propose the example of Washington as my defence ; and, in fact, one or many exceptions can effect nothing against the experience of the world, which has always been oppressed by the powerful.

“ I sigh between the distress of my fellow citizens, and the sentence which awaits me in the judgment of posterity. I, myself, am aware that I am not free from ambition ; and therefore I desire to extricate myself from the grasp of that fury, to free my fellow citizens from all inquietude ; and to secure, after my death, that reputation which I may be entitled to, for my zeal in the cause of liberty.

“ With such sentiments, I renounce again and again, the presidency of the republic. Congress and the nation must receive this abdication as irrevocable : nothing will be able to oblige me to continue in the public service, to which I have already dedicated my entire life ; and now that the triumph of liberty has placed this sublime right within the enjoyment of every one, shall I alone be deprived of it ? No : the congress and the Colombian people are just : they will not compel me to an ignominy.

ons desertion. Few are the days which now remain to me ; more than two thirds of my existence has already passed ; let me, therefore, be permitted to await a peaceful death, in the obscure and silent retreat of my paternal residence. My sword and my heart will, nevertheless, be always with Colombia ; and my last sighs will ascend to Heaven, in prayers for her continued prosperity.

“ I pray, therefore, congress and my fellow citizens, to confer on me the title of a *private citizen*.

“ SIMON BOLIVAR.”

The importance of this letter will apologize for so much of it being inserted in our narration. Whether Bolivar was sincerely desirous of being relieved from the grateful toils of command, our readers will better judge in the sequel. It is remarkable, that the conductors of the *Lira*, a newspaper devoted to Bolivar, in publishing his renunciation, made the extravagant assertion, that the Colombians, in consenting to it, would be subscribing to the cessation of their social existence. People had so long been doubtful and suspicious of Bolivar's designs, that all awaited with anxiety for the movements which time was to develope ; and this communication, while it gave a new direction to the course of things, certainly did not serve to allay the public apprehension.

Under the circumstances of the time, therefore, much excitement was produced by a note addressed to Bolivar, by Mr. Watts, the American chargé, at Bogota, which was justly regarded as an unexcused interference in the domestic concerns of Colombia. The whole tenor, and the particular expressions of the letter, were certainly unfortunate, however just and proper may have been the intentions of colonel Watts. "Permit me," it said, "as the representative of my nation, of the republic of Washington, to beseech you to return to Bogota, the capital of Colombia, and save your country. Without your excellency, all is lost. The three nations, which you alone have created, Colombia, Peru, and Bolivia, raising them, as it were, out of chaos, will relapse into their primitive obscurity, unless you continue your services for their preservation." The reply of the liberator was altogether general, and did not signify whether he should, or should not, abide by the advice given him; but still it carefully treated the letter from colonel Watts, not as the act of an individual, but as an *official expression* of the views and feelings of the government of the United States. It was not unnatural, therefore, for the patriots of Colombia and Peru to feel chagrined by the transaction. But no sooner was the letter communicated to Mr. Cooley, the American minister in Lima,

than he promptly declared, by an official note, addressed to the Peruvian minister of foreign affairs, that the government of the United States would never approve of the letter of colonel Watts, nor recognise his introduction into the domestic affairs of Colombia and Peru; and the executive of the United States, upon seeing this letter, caused a letter to be addressed to colonel Watts, expressing the regret and disapprobation of the president at his interference in the domestic concerns of Colombia.

During the period of the year now under consideration, general Santander, alarmed by the movements in Peru, addressed a letter to Bolivar, dated April 30th, urgently entreating the latter to take his constitutional place as president. Congress had not yet assembled, in consequence of the distracted state of the country. Insidious efforts were making by the enemies of the constitution, to aggravate the national calamities, by producing dissension between the members of the government, and representing the Liberator and the actual executive as hostile to each other; and especially, by spreading the most atrocious calumnies concerning their respective views. Bustamante and his division would have no disposition to communicate their insubordination from Peru to the departments of the south, and the wounds of the country would be

healed, if Bolivar, now that Venezuela was perfectly tranquil, would put an end to the universal agitations and suspicions, which pervaded Colombia. A single word from him, decidedly in favour of the constitution, would instantly calm the public anxiety. But the Liberator replied, that, having once renounced the presidency, for adequate motives, which still remained in full force, he could not alter his determination. He wrote to Sr. Baralt, president of the senate, in still stronger terms, using language of the following tenor :

"I will not serve Colombia as president, even if for that cause I should perish under the ruins of the republic, and if posterity should condemn my resolution. It is no longer doubtful, that my enemies suppose me ambitious; and the idea entertained of my libercide projects, alienates me for ever from a command which I abhor as much as tyranny : and if congress should not lend a favourable ear to my renunciation, (of which, however, I have no fear,) I beg you to signify to the legislature, my absolute and irrevocable resolution." And until late in June, when the return of the third division for the purpose of effecting a counter-revolution in Colombia, and restoring the authority of the constitution, was officially communicated to Bolivar, he continued in the north,

But appearances were by no

means such as to tranquilize the public mind. Although his official letters expressed a fixed intention of adhering to his renunciation, yet the most agitating reports continued to prevail. Private letters were received in Bogota, from the Liberator himself, which rendered his designs at least doubtful. Newspapers published, as we before intimated, under his own eye at Caraccas, were constantly filled with the most indecent and scandalous aspersions of all the tried patriots of Colombia, of all those incorruptible friends of liberty, who, having once fought to acquire independence, were determined and ready to fight again to retain their acquisitions. Party spirit in Colombia seemed to pour itself out in the newspapers, in the same ferocious spirit of calumny, in the same extravagant denunciations of all public men, which disgrace so many of the political journals in the rest of America. It was reported, that Mr. Canning, the individual in Europe who was most friendly to the South Americans, because his political reputation was most deeply pledged in their cause, had written to Bolivar, urging him, as a friend, to recall his renunciation. Yet Bolivar desisted not from the exercise of his extraordinary powers, after all causes for retaining them had ceased. He was, in fact, dictator in four departments. He continued to express himself in fa

four of the premature assembling of a convention. Acting under the advice of his secretary general, (Jose Rafael Revenga, an officer unknown to the laws, who performed all the functions of minister of state in the four departments, subject to the authority of Bolivar personally,) the Liberator had revived various oppressive financial regulations of the old Spanish regime, to the temporary ruin of commerce. Permanent councils, passing summary decrees verbally, a jurisdiction peculiarly odious in Colombia, because Murillo and his successors had sacrificed many of their best men by means of such a tribunal, had been established, although but for a short time. Handbills were circulated in Caraccas, in which the adoption of the Bolivar constitution was strenuously recommended, as the only refuge of Colombia from impending political destruction. A letter of Bolivar's to the senator Arboleda, was handed about in Bogota; in which, notwithstanding the solemnity of his declarations to Sr. Baralt, he manifested a disposition to accept the presidency; but added, that "he should insist upon assembling the grand convention, for the purpose of introducing those reforms, which would commence a new order of things, and satisfy those conflicting interests, which now threatened to prostrate the republic to the earth." All these circumstances were far

from being calculated to put an end to the general inquietude.

Meanwhile, an event occurred in the southern departments of the republic, which served to prove the feverish anxiety of the public mind, although it terminated without producing the evils, which, in such an excited state, men generally apprehended. This was the unauthorized return of the third division of the auxiliary army in Peru. After these troops had produced, or assisted in producing, the Peruvian revolution, of January 26th, as we have fully related in the proper place, their actual commandant, Bustamante, became satisfied of the necessity of their immediately quitting Lima. They had received no orders from the Colombian government to return home; but their business in Peru was now determined. The Peruvians had organized a provisional government of their own; and there was no reason why they should continue to be burdened with the expense and presence of a foreign army, whose assistance they no longer needed. A large body of two thousand Peruvians was already assembled; and there was danger that some violence or disorder would occur, from the proximity of the two armies. Political agitators were to be found, prompt and disposed to work on the ready elements of discord; and what might be the consequences, if it was impossible to predict. Al-

though the troops well knew that no preparations had been arranged for their reception in Colombia ; and that amid all the troubles of the past year, the government had not yet decided upon the disposition to be made of them ; yet, it was clear they ought not to be in Peru. Conflicting rumors had reached them from Venezuela ; and the proceedings of the last fall, in Guayaquil and Quito, led them to fear that the republic and constitution were in peril. At length, the officers of the division determined to return with their troops to Colombia ; and they concerted the means of doing it with the provisional government of Peru, which entered into arrangements for paying their arrears ; and provided transports and a convoy for their conveyance. Accordingly, the division left Lima the 13th of March, and embarked at Callao. By the direction of Bustamante, part of the troops were sent to Guayaquil, under the command of colonel Juan Francisco Elizalde, while he himself, with the rest of them, took the direction of the departments of Asuay and Equador.

Intelligence of the approach of the troops reached colonel Mosquera, intendant of Guayaquil, on the 14th of April, by despatch, from the Colombian agent in Lima. The messengers who brought the information, had no certain knowledge of Bustamante's designs. But

from their representations, or from other sources, general Jose Gabriel Perez, (one of Bolivar's instruments, in forcing upon the people his Bolivian code, and by him created superior chief of the departments of the south,) the intendant of Guayaquil, and the commanding general, Manuel Valdes, were led to believe that the object of the third division was to invade the department, under pretext of sustaining the constitution of Colombia ; and having obtained possession of all the provinces on the Pacific, as far as Juanambu, to erect the whole territory into an independent state, to be confederated with Peru. The fact afterwards turned out to be, if their own declarations are to be believed, that they meant only to produce a counter revolution, in the departments of Guayaquil, Asuay, and Equador, and rescind the disgraceful votes of the last year, by which the municipalities of those departments, acting under corrupt influence, had conferred the dictatorship on Bolivar. But the superior, civil, and military officers of the government, were justly alarmed by what really bore the appearance of invasion. The division had revolutionized the government of Peru. They were commanded by a general whose authority arose out of circumstances ; and who had exercised it, without reference, as it seemed, to any orders from his government. They came, breath-

ing sentiments of distrust, and almost of defiance, towards the Liberator. It was perfectly well known, too, that the Peruvians had never been satisfied with the annexation of the old provinces of Quito, to the republic of Colombia; and that these provinces themselves disliked the central system, and preferred either an independent government, or a confederation with Peru, or New Grenada and Venezuela.

In this difficult contingency, general Perez hastily entered into such arrangements as the urgency of the moment would permit. Attempts were made to put Guayaquil in a state of defence, by repairing the fortifications, and equipping a naval force; but it required very little examination to perceive, that it was impossible, with such short notice, to be able to maintain the place against the approaching troops. Filled with consternation, the superior chief and commanding general seem to have thought that something could be gained by anticipating the supposed wishes of the third division; and they therefore invited the people of Guayaquil to make a free and public declaration in favour of a confederacy. But, according to the statements of the people of Guayaquil, the presence in the city of general Heres, one of the ex-ministers of Peru, prevented the measure.

Previous to this, however, on the 28th of March, the intendant, colonel Mosquera, had been sent out in an armed brigantine, to meet Bustamante, and to exert himself to turn the latter from his supposed purpose of invading Colombia. Mosquera found, that a portion of the troops having sailed for the port of Manta, had already disembarked, and were at Monte-Christe; and he steered thither, expecting to find Bustamante. Under this idea, Mosquera prepared a note addressed to Bustamante, representing the surprise of the officers of Guayaquil at his attempt; stating, that the department was perfectly tranquil, and notwithstanding the acts of the last fall, was now governed strictly according to law, and in perfect obedience to the constitutional authorities of Colombia. He therefore urged him to desist from his hostile purpose, and to abstain from all acts calculated to disturb the public peace. As Bustamante had proceeded to Cuenca, according to the plan of operations mentioned above, Mosquera's note reached the hands of colonel Elizalde, who replied in a note containing only a strong assurance, that he, and the corps under his command, would scrupulously obey the constitution and the laws. Mosquera's messenger told him, that Elizalde had verbally declared, that Bolívar was a usurper, whom he would not obey: nor would he obey

Santander, because the latter was in concert with the Liberator; and, considering this, Mosquera viewed Elizalde's written answer as too indefinite to be satisfactory. Accordingly, he sent another message to Elizalde, desiring further explanations; but receiving no answer to the last message, he returned to Guayaquil without delay, and reached the city on the 13th of April.

On his arrival, he found that Antonio Elizalde, and some other officers at Guayaquil, were acting in concert with Juan Elizalde, the lieutenant of Bustamante; and that some political change must inevitably ensue. This actually happened on the 16th; for early in the day, Mosquera received notice, that a portion of the garrison was under arms, headed by Antonio Elizalde, and that Juan Elizalde was marching towards Guayaquil. After a vain attempt to bring the troops to subordination, Mosquera, with generals Perez, and Valdes, took refuge on board the ship of war Congress, which lay in the harbour, the other officers being arrested by the insurgent soldiery. Mosquera was desirous to retain possession of the fleet, and resist the mutineers; but was overruled by Perez and Valdes. At length, a messenger came from Antonio Elizalde, summoning the general officers to give up the ships of war, and retire to Panama in transports; Elizalde saying, that the garrison

were determined not to fight with the auxiliary division from Peru. And after considerable negotiation between the officers, and the leaders of the garrison, it was arranged, that transports should be furnished all the officers, to convey themselves and their effects to Panama or Buenaventura; and thither they accordingly went, to give an account of these proceedings to the government.

It so happened, whether by design or accident, that general Jose de La Mar, being on his way to Lima, to take his seat in the Peruvian congress, arrived in Guayaquil the 15th of April. The troops, under command of Juan Elizalde, did not enter the city until the 24th. During this interval it was that the people of Guayaquil assembled; and in concert with Antonio Elizalde and his soldiers, or perhaps under their influence, renounced the Bolivian constitution, and rescinded the votes conferring the dictatorship upon Bolivar. And the superior military officers of the place, by whose direct agency Bolivar had effected his purposes, having abdicated their authority, the people and the troops together, persuaded or compelled general La Mar to take the direction of affairs provisionally, until the regular government should be re-established.

In order to anticipate the representations of the commanding offi-

cers of the department, the municipality of Guayaquil prepared a long address to the government of the republic, dated April 24st, giving an account of the circumstances which had produced the votes and other doings of the preceding week. They state the hardships which they suffered, under the operation of the central system; charge the commanding officers of the department with incapacity and corruption; and ascribe what had just taken place to the mere impulse of circumstances. They concluded by protesting, before the God of nature and society, before the national government, and the whole world, that they had not dissolved the bond of association with Colombia; that they would preserve its laws, discharge their social duties, and religiously obey the supreme authorities of the nation. And although they entreated the government to confirm the appointments they had made, and to pardon Elizalde and his associates, yet they professed a determination to make any sacrifice, rather than to disturb, in the slightest degree, the regular administration of the laws of the republic. In addition to this, general La Mar regularly corresponded with the government at Bogota, assuring them of his readiness to commit his provisional authority into the hands of the proper functionaries, the moment

they returned to their posts; and this, in fact, he did accordingly.

While these incidents were transpiring at Guayaquil, Bustamante disembarked his men at Colan, and was on the march for Cuenca. He was cordially received on the way, and uniformly expressed his pacific intentions, and his entire devotion to the constitution; and declared his satisfaction that the departments of Asuay and Equador had repented of their disgraceful resolutions in favour of Bolivar, whose design was, in his opinion, to be made perpetual dictator, and to force the Bolivian code upon Peru and Colombia. Proceeding regularly and peaceably, he entered Cuenca the 24th of April, and made every exertion in his power to quiet the apprehensions of general Torres, intendant of the department of Asuay. But his movements were unexpectedly checked. Bustamante intended to assemble the municipality on the 5th of May, in order to procure a revocation of their constitutional acts of the year before. But a quarrel having arisen between Bustamante and one of his subaltern officers named Bravo, the latter induced a battalion of the troops to mutiny; and Bustamante, with his chief officers, was arrested by him, and put in confinement. In this manner, these new pretorian cohorts retorted



upon Bustamante the lessons of insubordination which he had taught them in Peru.

Bustamante's principal adviser was said to be Dr. Luis Lopez Mendez. They and one other officer only were kept in confinement for a short time, until the public tranquillity could be assured, which was effected without bloodshed. The executive authority promptly adopted the most efficacious measures for reducing the troops to subordination by force of arms, if it could not be accomplished otherwise : and conferred on the commanding generals in the South, competent discretionary authority to be used in compelling the refractory soldiers to return to their duty. But all apprehensions of any conflict with them as it soon appeared, were groundless. There is some reason to believe that Lopez Mendez might have planned the separation of the Pacific departments from Colombia ; but it was satisfactorily proved that Bustamante and the other officers of the third division, were actuated only by extreme zeal for the constitution, which, subsequently to the movement in Lima, they had again solemnly sworn to maintain, and which they were determined to support at all hazards. Bustamante was set at large by general Flores, commanding in the Ecuador, and resumed the direction of his division : and they afterwards

submitted without resistance to general Ovarado, the officer appointed by the executive to command them : and were peaceably distributed in their cantons, pursuant to the orders given to the intendants of Guayaquil, Asuay, and Equador. The act of amnesty afterwards passed by congress, of which we shall presently give an account, extended to the third division, and prevented a critical examination of their offence.

When the first intelligence of the events in Guayaquil reached Bogota, information thereof was communicated to Bolivar without delay. It is easier to conceive, than it is to describe, the conflicting emotions, which he must then have experienced. The flower of the Colombian army, the victors of Ayacucho, whom he had left at Lima, and on whom he confidently reckoned for the support of his authority in Peru—these very men had overthrown his favourite Bolivian code, prepared by him so carefully, and forced upon Peru at so much sacrifice of reputation and popularity. Santa Cruz, to whom he had delegated his power as president of the council of state, had himself joined in the Peruvian cause, and was now at the head of the provisional government. And the hardy and victorious cohorts, of the auxiliary army in Peru, were now returning to Colombia, eager

to undo the servile work of the last year in the Pacific departments, and compel these to renounce the authority of Bolivar, once a name associated only with aspirations of liberty, and fitted to awaken the nation like a trumpet call, but now loaded with the blackest suspicions. If those suspicions were unjust, how deeply must he have repented of the ambiguous conduct which gave so much cause for entertaining them ; if they were well founded, he must have lamented still more deeply that he had suffered the syren voice of ambition to lure him from the sacred cause of freedom, when he found that his character and his plans were become odious even to the Peruvian army, his brave associates in so many well fought and hard won fields of battle.

Whether Bolivar had merely been waiting for some plausible pretext to resume the presidency, and gladly availed himself of the troubles in the south as the sufficient reason, or whether they in fact produced a change of determination, it is difficult to say ; but certain it is, that he immediately roused himself from his state of inactivity at Caraccas, and prepared for a new scene of operations. He ordered general Salon to Carthagena, with a column of eight hundred men ; and general Urdaneta to concentrate another body of troops upon Cucuta. And on the

19th of June, his secretary Revenaga, addressed a communication to the vice president, apprising him of these movements, and of the alteration in Bolivar's plans. He said Bolivar had hitherto declined accepting the presidency, notwithstanding the movement in Peru, because he did not anticipate that it would proceed any further, or that Bustamante's division would carry into effect their project of invading Colombia. But the success of the project, he continued, has entirely altered the situation of the Liberator, who, both as president of Colombia, and as simple citizen, was bound to exert himself to prevent the dismemberment of the republic, and the prostration of the laws. The multiplied and distinguished proofs of their confidence, which he has received from the Colombian people, render this obligation more imperative ; and he is determined to march against the traitors, who, after tarnishing the splendour of the republic, are labouring to rend her in pieces. The Liberator will, therefore, set out immediately for this city, and will not think he has discharged his duty as a soldier of his country, until he shall behold her once again tranquil, and able freely to dispose of her own destiny. On the same day he issued a proclamation, which, as presenting a singular change of language and sentiment, we, therefore, insert entire.

"Colombians, your enemies menace the destruction of Colombia: It is my duty to preserve her. Fourteen years have I been at your head, almost by the unanimous will of the people. In every period of glory and prosperity for the republic, I have renounced the supreme command with the purest sincerity. Nothing have I desired so much as to relieve myself of power, the instrument of tyranny, which I abhor worse than ignominy itself. But shall I abandon you in the hour of danger? Would this be conduct worthy of the citizen or the soldier? No, Colombians; I am resolved to encounter all hazards, rather than anarchy should usurp the place of liberty, or rebellion that of the constitution. As citizen, liberator, and president, my duty imposes upon me the glorious necessity of self-sacrifice for your sakes. I march, therefore, to the southern confines of the republic, to expose my life, and my glory, to deliver you from traitors; who, after having trodden under foot their most sacred duties, have raised the standard of revolt to invade the most loyal departments, and those most worthy of our protection. Colombians, the national will is oppressed by the new pretorians, who have undertaken to dictate laws to the sovereign, whom they are bound to obey. They have arrogated the supreme right of the nation; they have violated all principles; in short, the troops,

late Colombian auxiliaries of Peru, have returned to their country, to establish a new and strange government on the ruins of the republic, which they outrage with greater audacity than our ancient oppressors. Colombians, I appeal to your glory and your patriotism. Rally around the national banner, which has waved in triumph from the mouths of the Orinoco, to the summits of Potosi; cherish it, and the nation will preserve its liberty, and will leave the public will in a state of entire independence to decide concerning its destiny. The grand convention is the cry of Colombia; it is her most urgent necessity. Congress will undoubtedly convoke it, and to its hands will I surrender the leading staff, and the sword, which the republic has given me, both as constitutional president, and possessing the extraordinary supreme authority conferred by the people. I will not disappoint the hopes of my country. Liberty, glory, and laws, you have conquered from our ancient enemies; liberty, glory, and laws, we will preserve, in spite of monstrous anarchy."

This proclamation was not altogether what the friends of liberty wished. It was not grateful to find the departments of Guayaquil, Asuay, and Equador, which had yielded to corruption, and proclaimed Bolivar dictator, characterized as the most loyal members of the

republic, to the implied disparagement of others, which had been unwavering in their fidelity to the constitution. There was something of the tone of personal resentment also, in the proclamation, that led men to doubt, which inducement was uppermost in Bolivar's mind, the desire of tranquillizing his country, or that of punishing the soldiers of the third division, or perhaps, reclaiming them to his interest, and then leading them on against Santa Cruz, and La Mar. But nevertheless, a majority hoped for the best, and felt their fears somewhat allayed by the Liberator's reiterated expressions of respect for the constitution. Ere he departed from Caraccas to embark at La Guayra, for Carthagena, he made a decree, constituting general Paez superior chief of Venezuela; that is to say, of the three departments of Maturin, Orinoco, and Venezuela, and conferring upon Paez all the authority which he himself exercised there, with responsibility to himself alone; and with unlimited control, under him, of all the military forces of these departments. At the same time he issued a proclamation, dated July 4th, addressed to the Venezuelans, and referring them to the grand convention, which was to assemble for the redress of their grievances. "I promise you," he said, "that as soon as the grand convention shall be assembled, and exerts its beneficial power over

your welfare, you shall see me always in the land of my progenitors, my brothers, my friends, assisting you to alleviate the public calamities, which we have suffered from war and revolution. Inhabitants of Caraccas, born a citizen of Caraccas, my highest ambition will be to preserve that precious title; a private life among you will be my delight, my glory, and the revenge which I expect to take of my enemies." It has been justly observed, that however sincere Bolivar may have been when he made use of these expressions, yet, that he was not master of his own destiny. His future career must be governed by events beyond his control: and if his inclination should prompt him to pursue a different course from that here announced, he can never be wanting in pretexts for changing his resolution.

And as it happened, proceedings had ere this taken place at Bogota, which considerably affected the relation, in which Bolivar stood, in respect of the Colombian nation. We allude to the doings of the congress, which, not having assembled at the regular period in January, was called together in May, for various urgent motives, among which, the agitations of the republic, the violence of parties, the general distrust and alarm, the counter revolution in Peru, and the deplorable state of the finances, formed the most prominent ones. The

vice president's message gave a succinct view of the actual condition of the republic, referring congress to the documents to be laid before them for a more full knowledge of affairs, and concluded with reminding them that the honour and happiness of the people they represented, and the fate of their common country, depended upon their resolutions, which would be the life or the destruction of Colombia. As for himself, the first magistrate of the republic, in the actual administration of the government, a veteran soldier of liberty, and a faithful subject of the laws, he never had been, nor was he then, prepared to exchange the glory of his country, and its laws, for degradation and anarchy.

Among the earliest objects demanding the care of congress, after it had assembled, was the qualification of the vice president, who, for the reasons mentioned at the beginning of the chapter, had, ever since the second of January, continued in authority, contrary to the existing laws. General Santander fully explained the circumstances attending this; and afterwards tendered to congress his resignation of the office of vice president, to which he had been constitutionally elected. The sentiments he expressed on this occasion are worthy of record, because the political agitators of the day, made the vice president the mark, at which their

most envenomed shafts were aimed. Towards the close of his remarks, he said:—"On me have been lavished all sorts of imputations. I am accused of being the author of the misfortunes of the country, of being a rival and enemy of the Liberator; through my means the Bolivian constitution has failed of success; through my means the confederation of Colombia, Peru and Bolivia has been frustrated; through my means the nation has been robbed of the delights of the dictatorship; through my means the people suffer contributions, the army has been corrupted, the revenue has been destroyed, parties have been excited, and we have been placed in the road to ruin. Admit my resignation, and these evils will be succeeded by innumerable blessings." But confident in the rectitude and tried ability of Santander, confident also in his unshaken attachment to the constitution and republican institutions of his country, congress constantly and steadily refused to accept his resignation, and he accordingly acquiesced in their reiterated vote, and took the oaths of office.

But much less promptitude was evinced by the legislative body, in refusing to accept Bolivar's renunciation of the presidency. The subject was discussed with great animation; and although, on the one hand, the friends of Bolivar made the most ingenious apologies

for the offensive acts of which he had been guilty, and indulged in a style of lofty panegyric on his character and life; yet, on the other, members were not wanting, who boldly and independently urged congress to take him at his word, and accept the renunciation. The speeches of the senators Gomez, Soto, and Uribe, on the latter side of the question, are monuments of their dignity of sentiment, firmness, and devoted attachment to the free institutions of the country, and valuable illustrations of the spirit of the times; and they have been widely circulated in South America, by means of the newspapers of Colombia, Buenos Ayres, and Chili.

The senator Francisco Soto began by saying, that he had not the slightest personal feeling of any kind towards Bolivar, except that of high admiration for the heroic qualities of his character. They had never associated but on friendly terms; and the opinion he had formed on the question was wholly unbiassed; and he came to the discussion of it with the calmness and impartiality, which its importance demanded. Political writers had maintained, and he agreed in the position, that some individual was always created by the shock of revolutions, whose character stamped itself upon events, and gave expression to the new institutions, that were about to be formed. In 1815, Bolivar had

been raised to the rank of supreme chief; and in 1819 and 1821, to that of Liberator, or Founder of Colombia. The nation was then in its infancy, and required the services of that very individual to impart an impulse to its new born constitution. But, he said, the time was passed, when the nation could not subsist without the directing hand of Bolivar. It was an insult, and a disgrace to the whole country, to affirm, that it contained no other man capable of administering the government. "I deny," said he, "that any single individual is necessary to the existence of this republic; and if there be that individual, it is high time that we should quit this assembly; because, in that case, we have a sovereign, who is every thing, and the nation is become nothing. I, at least, shall feel infinitely chagrined at the idea of belonging to a country, in which one man is all in all, and the rest are his mere agents; because, from a condition so calamitous to one of genuine slavery, there is but a single step; and I, was not born, I speak in the fulness of my soul, I was not born to be a slave."

He urged upon the friends of Bolivar, that his glory, and the happiness of Colombia, equally required his retirement. He had reached the pinnacle of his glory: of a glory, which was not his property alone, but that of Colombia, of America, of the universe. His

position was the most arduous in which man could be placed ; for he could gain nothing further, and he had all to lose. Lifted up to a vast eminence, he might easily stumble, and his fall would be an immense loss to himself, and to Colombia, who would be thus deprived of the august monument of his fame. If the immortal Washington had not nobly deposited his command at the foot of his country, when her independence was achieved, all America would not now unite in pronouncing the panegyric of that extraordinary man. And if Cesar had not continued at the head of the army, and obtained consulates and dictatorships, contrary to the laws of the republic, he would never have become the oppressor of his country, nor overturned the liberties of Rome. Bolivar himself had well observed, that zealous republicans could no longer consider him without secret dread, because history told them, that all men, in his situation, had proved ambitious. Yes, said he, zealous republicans do regard him with just apprehension. "Not only the friends of liberty in Colombia, but all South America, all who study his career, do fear, lest the glory of Bolivar should swallow up the rights of his country ; knowing how difficult it is to set limits to power, when favoured by fortune, by *prestige*, and by gratitude. We fear, because, although Bolivar is a hero,

yet heroes are not the less men, and men have passions; and successful ambition in all ages never has wanted its eulogizers. We fear, I for one do, because I should loathe my country without liberty, and liberty without the republic."

He apprehended, lest Bolivar, continuing in the government of Colombia, would draw upon her the enmity of the rest of America ; because, whether there was just cause for it, or not, the fact was notorious, that he was an object of the strongest jealousy in Peru, Chile, and Buenos Ayres. But he cared less, he said, for what other nations thought, and more for the liberties of his country. Bolivar had proclaimed to the world, that the Bolivian code contained his profession of political faith ; and yet every feature was irreconcilably hostile to the constitution of Colombia, and to the whole spirit of her institutions. He had, by his letters, urged that code upon the Colombian people. He commissioned his creature, Leocadia Guzman, to corrupt the commanding officers in the departments of Guayaquil, Asuay, and Equador, and force them, and the municipalities of the principal towns, to declare him dictator of Colombia. The ominous *Lira* of Caraccas, the infamous detractor of all the friends of liberty, continued to advocate the project of melting all the American states into one, with Bolivar

at their head as president for life, and without any responsibility for his conduct. Nay, his partisans incautiously disclosed the fact, that the regiments of the auxiliary Colombian Army in Peru, had been wrought upon to take an oath of obedience, not to the government, but to an individual member of it; not to the constitution, but to the person of the Liberator. All these were damning facts, which not only remained unrefuted, but undenied. And if such was the political creed of Bolivar, and such his designs and efforts, was he fit for the presidency of Colombia?

After pursuing the train of reasoning, which we have briefly sketched, he concluded:

"If I am mistaken, I feel at least the tranquillity inspired by a conscience not agitated by bad passions, but only by a pure love for my country; a conscience which has withstood the continual solicitations employed for the purpose of compelling me to yield to the influence of power and of fear; for I feel no embarrassment in saying it, because it is the solemn truth. Day and night, and even in the hours devoted to repose, I have been assailed with intreaties not to vote for accepting the renunciation. I have been assured, by persons entitled to credit, of threats being made, that any member of congress who votes for accepting it, shall lose his head. I have not

heeded these instigations, and I despise such apprehension, because I am sure that cruelty is not in the character of a hero. And if the disgrace of my country be so complete, that the frank manifestation of an opinion in favour of its rights is to be recompensed by the death of a senator, sooner would I calmly yield up my life, than assent to measures which may conduce to the annihilation of the republic, the establishment of a perpetual, hereditary, or unlimited power, and the ruin of liberty; since I should care little for life, when my country was doomed to slavery."

The senator Miguel Uribe, spoke with equal plainness, carefully protesting that he also entertained no personal resentment against Bolivar, whom he scarcely knew by sight, and that he had never received, nor ever expected, any favours from the existing government. He dwelt most upon the measures adopted, and the views expressed, by Bolivar, since his return from Peru. He alluded, among many other things, to the credentials given to Leocadio Guzman, which had been publicly handed about in Bogota; to the celebrated letter addressed to Dr. Gristobal Mendoza; and to the intrigues of Guzman, who, acting by virtue of his commission, had openly and notoriously been the prime mover and agent in all the



unconstitutional acts of the southern departments. "And this same Guzman," said he, "still waves the flaming torch of discord. He incessantly vomits forth, like some fury, sarcasms and invectives of every description. He discredits the government, he discredits the congress, he discredits our institutions, he discredits those departments which have remained faithful to their oaths and their principles, and under the wise administration of the actual vice president have enjoyed in all their fulness the precious and inestimable blessings of peace and liberty. The Lira and the Reconciliador of Caraccas are monuments of disorder and of anarchy, of hatred and bad passions; and yet these are published under the auspices of Bolívar." But we pass over other parts of the speech, to arrive at the following remarkable passage of it.

"I now proceed to establish an hypothetical dilemma, which will comprise the substance and essence of my opinions on this subject. Either the renunciation of the president is in good faith, or it is not. In the first case I say: It is conceived in terms so resolved, so decided, so irrevocable, that congress has no alternative but to accept it, because if we refuse, we subject ourselves to scorn, and to injurious repulse. The admission of it is besides conformable to

the eternal principles of justice; it is equitable, it is humane. If repose be the natural recompense of all the services and fatigues of a public benefactor, why drive general Bolívar to the ignominy of desertion, which he dreads so strongly? Why deprive him of the freedom and the tranquil pleasures of his fraternal hearth, which he so ardently longs for? And why, in fine, refuse to let him escape from those furies of ambition, from which he does not think himself wholly free? But if, on the contrary, he is not sincere in his renunciation, then, availing myself of the very language which he uses, I say, that congress ought to accept it, once, and a thousand, and a million times over. For how can congress, the depository of the people's confidence, and the preserver and natural safeguard of the institutions of Colombia, leave the fate of the nation, its liberties, and its securities, in the hands of a man, who, in the latter supposition, will have violated the most solemn oaths? Of a man, whose language will be for that cause in contradiction with his own works, and who having spoken to the people of liberty and imprescriptible rights, while he stood in need of the people, and of their sacrifices, afterwards presented them with a code of slavery and ignominy! What! Is the liberty of the nation worth so little?

Is it not the fruit of immense and cruel sacrifices, and shall it weigh less with congress than more personal considerations? Or is it, that this person is worth a hundred times more than the republic, as some men have had the audacity and insolence to assert, in the very bosom of congress! I intreat the attention of gentlemen to this point. You style yourselves fathers of the country, and under this glorious epithet, you pretend to place yourselves on a level with the immortal senate of Rome. Well then, fathers of your country, depositaries of the public power and confidence, will you consign the liberties and securities of the people to the most perilous lot? Respectable members of congress, who are for the permanency of command in general Bolivar, because you think him a thousand times more dangerous as simple citizen, than as president, will you push your confidence to the degree of blindness? He who, as mere general in the army, would be the sanctuary and asylum where every malefactor would take refuge; he who, in this case, would tear asunder the veil of modesty, and give himself up to a frenzy of ambition, is he upright, is he fit to govern the destinies of a free people, which desires the preservation of its code and its rights? Look at this, consider it well, fathers of your country. As for myself, neither as

senator, nor in quality of citizen, nor even as a mere individual of the human family, can I consent to the continuance of the supreme authority in general Bolivar. Not as senator, because I have solemnly sworn to maintain the institutions of Colombia, which he has invaded; nor as citizen, because I appreciate in the highest degree my civil privileges; nor as a simple individual of the human family, because I cannot willingly descend to the level of a beast of burden. And this, sir, is the lot which infallibly would befall me, if unfortunately the Bolivian code should come to be established in Colombia. The Bolivian constitution I esteem one of the greatest outrages ever perpetrated upon sound sense, in this age of illumination and freedom; for it is the combination of all the forms of tyranny; it is a scheme of legalized despotism, to the opprobrium and degradation of the people. No, no; federation before slavery, exile rather than vassalage to any man. I conclude by saying, and such is my vote, that we should admit the renunciation of president Bolivar."

But other considerations prevailed with the members of congress. No doubt the timidity of some had been alarmed by the menaces which the senator Soto alluded to; and others were actuated by apprehensions that Bolivar would prove more dangerous as a private citi-

zen, than as constitutional president ; and therefore, although suspicious of his designs, voted for him, the least perilous of the two alternatives. His renunciation, therefore, was not accepted : but twenty-four members of congress, six senators, and eighteen representatives, manfully testified their devotion to the republican cause, by recording their votes against the all-powerful man, whose fame overshadowed his country, and threatened to blight her free institutions. If Bolivar should ever attain unlimited power, he will probably feel towards this independent minority, as Bonaparte did towards Carnot, respecting the meanness of character which dictated a fruitless opposition to his views. They were praised in the circles of Bogota, and in the newspapers which sustained the constitutional cause, as the immortal TWENTY-FOUR, who had evinced a moral fortitude, more rare, and therefore more meritorious, than the cheap and every day courage, which displays itself amid the stimulating scenes of the field of battle. The vote of congress was immediately communicated to Bolivar by the vice president, in a letter written with the simplicity and happiness of expression, which distinguishes his state papers among those of the Spanish American statesmen :

“ Your resignation of the presidency of the republic of Colombia,

he said, has not been accepted by the congress ; you are therefore obliged to submit to the will of the nation, which requires you to take possession of the presidency of the state, and to govern it according to the laws which the sovereign people have dictated, and shall dictate in future, through the medium of their representatives. The vice president of Colombia, intrusted with the government, confidently hopes that you will not disappoint the wishes of your country, and that it will come out, under your authority, triumphant and glorious from the agitations which surround it. I express, by anticipation, my congratulations to Colombia for so happy an event.”

He subjoined information of the fact, that neither had his own resignation of the vice presidency been accepted, and that he should continue to co-operate with Bolivar in the public service, with a heart devoid of resentment, and a soul entirely devoted to Colombia.

This communication was dated June 7th ; and Bolivar having, it will be recollected, determined, on or before the 19th of June, to march to the southern departments, had, of course, anticipated the vote of congress, and virtually recalled his resignation. He was at Cartagena the 12th of July, when he received the vice president's letter, and immediately replied, that, obedient to the will of the people, he

had set out on his march for the capital, which he would hasten to reach as soon as possible. But, for aught that was known at Bogota in the month of June, Bolivar still continued in the exercise of his extraordinary powers, although every thing was tranquil in Venezuela, if we except the complaints occasioned by Revenga's financial regulations. Add to this, congress had, on the 5th of June, passed a decree for a general amnesty and oblivion of all acts done since the

27th of April, 1826, when the movement in Valencia was commenced. And congress, therefore, deeming it time to complete the work of peace, proceeded to discuss the project of a law for the re-establishment of political order, which passed through its last stages the 19th of June, the very day on which Bolivar published his intention of marching to the south; and on the 20th was approved by the executive. It is in these words:

**DECREE.—FOR THE RE-ESTABLISHMENT OF POLITICAL ORDER; THE SENATE AND HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF COLOMBIA IN CONGRESS ASSEMBLED—CONSIDERING,**

1. That since the 27th April, 1826, events have occurred in various parts of the republic, to interrupt the legal and constitutional order, which, for the tranquillity and happiness of the Colombian people, had heretofore reigned.

2. That, conformably to the constitution and the laws, the executive authority of the republic resides exclusively in the president thereof; and in case of his death, renunciation, destitution, absence, or his not entering upon the discharge of his duties, resides in the vice president of the republic; or in default of him, in the president or vice president of the senate.

3. That amid the disorders before indicated it is impossible to ascertain the true opinion of the nation, so that congress may, in consequence, dictate suitable measures to be adopted;

4. Finally, that, even supposing the constitution and the laws inadequate to secure to the Colombian people the advantages which it is justly entitled to, yet, while they continue in force, and not yet revoked in

a manner lawful and proper to civilized societies, they ought to be exactly obeyed and preserved, inasmuch as their observance and fulfilment are the sole bond of union among Colombians: **DO DECREE:**

**ARTICLE 1.**

So soon as congress assembles, the executive cannot dictate any extraordinary measures, without the previous accord and consent of said congress, conformably to the constitution.

**ARTICLE 2.**

The political order of the republic, as it existed before the 27th of April, 1826, is re-established in all its vigour.

**ARTICLE 3.**

Although congress ought to take into consideration the reform which, in the exercise of extraordinary powers, has been introduced into some laws, and to decree in consequence what they may deem fit; nevertheless, the executive authority shall continue to re-establish, progressively, the observance of those among them, the fulfilment of which will, in his opinion, best conduce to the re-establishment of political order.

## ARTICLE 4.

No Colombian is bound to obey any authorities, except those established by the means, and in the form, prescribed by the constitution and laws.

## ARTICLE 5.

When the true sentiment of the nation shall be ascertained, by the means which congress considers just and legal, in relation to the political reforms which persons or corporations have petitioned for, congress will adopt such regulations as it shall esteem fit.

## ARTICLE 6.

When the executive authority promulgates the decrees, and orders the execution thereof, he will accompany the same with such particular regulations, or instructions and precautions, as he shall deem convenient for executing it. Dated at Bogota, the 19th of June, 1827.

The enactment of this important law left Bolivar in the simple capacity of general in the armies of Colombia. It accordingly became the first duty of the vice president to notify him of the fact: and, in doing it, general Santander communicated to the Liberator, through the ordinary medium of the department of the interior, that, by virtue of the 6th article of the decree, he had provided, that the permanent military councils established in Venezuela, Orinoco, Maturin, and Leticia, should forthwith be abolished; that all restraints upon the freedom of the press should be removed; and that the funds appropriated in May, 1826, for paying the interest of the foreign debt, should no longer be diverted from that object. By virtue of the same decree, con-

stitutional order was wholly restored in the departments of the south; the authority of general Perez as supreme chief, having given place to the regular departmental intendants. All this being done, it remained to see, what effect the act of indemnity and oblivion, the refusal to accept Bolivar's renunciation of the presidency, and the decree for re-establishing constitutional order, would have upon the proceedings of the Liberator himself, and upon the general condition of the republic.

But congress were not content with going only thus far. They had signified, with sufficient clearness, their attachment to the constitution, in re-establishing the ancient order of things, and in restoring to the constitution its ancient authority in every corner of the republic, so far as they possessed the power. And, having thus taken their stand upon the constitution, they felt bound, in justice to those departments which had sought to reform it, to inquire whether this could be done consistently with their fidelity to its sanctions. With this object in view, they framed a bill for calling a national convention, and voted to submit the bill to the vice president, requiring his opinion, as well upon the general question, as upon the particular provisions of the decree. This course, considering the relative position of the vice president and of Bolivar, was ho-

honourable to the patriotism of general Santander, and expressed in the strongest manner, the implicit confidence of the legislature in his political integrity and intelligence. He returned the project, accompanied with a message, containing his views of the subject, and approving of the measure, provided they felt satisfied of their right to construe

the 191st article in the constitution, in the manner expressed in their preamble. He suggested some alterations, which were adopted, for the purpose of having it clearly appear, that congress intended to act only agreeably to, and by virtue of, the provisions of the constitution. The result was, the following decree :

*Grand Convention.—The Senate and House of Representatives of the Republic of Colombia, in Congress assembled.—Considering,*

1. That when the constituent congress provided by the 191st article of the constitution, that after a trial of ten or more years, congress should convoke a grand convention of Colombia, authorized to examine or reform it in its totality, they did nothing more than indicate the period which, in their opinion, was necessary to discover its inconveniences, or advantages :

2. That by the accumulation, and rapid occurrence of political events, which have taken place in the republic, we may already have obtained the lessons of that experience, which the constituent congress anticipated from the lapse of ten years : since opinions are divided concerning the fitness of the existing institutions, great agitations have been manifested, with symptoms of discord, and disturbance of the public order; the empire of the laws, and the action of the government, have exhibited a want of the necessary vigour, to re-establish and consolidate the system; and in consequence of all this the march of the constitution, and of the public administration, suffers delay, and actual interruption; urgently calling for the attention of congress :

3. That, in these circumstances, it is not to be presumed, that the design of the constituent congress was, to let evils accumulate upon evils, and then

to become aggravated to such a degree, as to endanger the public order, the liberty, the tranquillity, union, and integrity of the republic, solely in order to complete the decimal period : Using the faculty which the 139th article of the constitution grants, have in need to declare and decree, as they do declare, and do decree :

Art. 1. Although in the ordinary and regular course of events, a trial of the constitution for ten or more years would be necessary, according to the provisions of its 191st article, before congress could convoke the grand convention of Colombia, nevertheless, in the present critical circumstances of the Republic, the experience already acquired meets and fulfils the spirit of the article above mentioned.

Art. 2. In consequence, congress can convoke, and shall now convoke, the grand convention of Colombia, to assemble in the city of Oca on the 2d day of March, 1826; said convention, if it shall be of opinion that urgent necessity exists for examining the constitution or reforming it, after deciding this preliminary question, then to proceed and accomplish the same.

Art. 3. The constitution of the Republic shall continue to be fully and punctually observed, so long as the grand convention shall not have

altered nor reformed the same. And the laws shall continue in like observance until they shall be lawfully repealed by the competent authority.

Art. 4. By separate decree, congress will determine the number of deputies which each province shall nominate, and also the mode and form of the elections.

Dated in Bogota, the 5d of August, 1827.

The enactment of this law might be deemed sufficient, to put at rest every whisper of complaint. A convention was now to be assembled immediately, for the purpose of amending the constitution, if the voice of the representatives of the nation should be in favour of its reform. The political agitators of Venezuela, had now attained their professed object; and unless they had some iniquitous purpose under cover, such as the Bolivian code, the union of the South American states, and a dictatorship for Bolivar, it behooved them to await in tranquillity the result of the convention. But the agitation of the public mind, was by no means diminished by the appearance of things at the latter part of July and in August. Trifles are indicative of intentions. Much conversation was occasioned by the circulation of a Bolivian dollar, lately coined in Potosi. The front exhibited the head of Bolivar crowned with laurel like Caesar's; the reverse a cacao tree, the emblem of Venezuela, between two Peruvian llamas, and six stars, said to indicate

the six great sections of the Bolivian state, namely, Venezuela, Cundinamarca, Quito, Lima, Arequipa and Bolivia. The newspapers of Bogota, openly expressed an opinion, that in the present state of things, the republic of Colombia was dissolved *de facto*, and that it was time for New-Granada to provide for her own safety. What effect the decree for re-establishing political order might have upon Bolivar, was at least problematical. It revoked his extraordinary powers. It commanded the inhabitants of Colombia to obey no person, whose authority did not emanate from the constitution. It required Bolivar himself to undo several of his favourite measures, and to retire within the bounds of the power and duties belonging to him, as president elect, and not yet qualified. Various rumours reached Bogota of the dissatisfaction at these proceedings, and that in consequence thereof he was determined to march against the government as their enemy, and usurp the supreme power by force. His proclamation of the 19th of June, was now regarded as being aimed, as much at congress, as at the troops of the third division, whose chief crime was their declaring in favour of the constitution, and undertaking to overthrow Bolivar's dictatorial power in the south.

Uncertainty became converted

into serious apprehension, when news arrived at the capital of the warlike preparations making in the north. Bolivar himself was at Cartagena the 2d of July, with a force, including the garrison of that place, of four thousand men. The garrison of Maracaibo, and other forces to the amount of two thousand men, had been put in motion by general Urdaneta, to be concentrated upon Cucuta. General Patz was employed in organizing the retired corps of cavalry in the Apure, destined, it was said, for Guadualito. It was announced by Bolivar, that this mass of troops was organized against the departments of the south. But these were now, to all appearance, as tranquil as Cundinamarca itself. Even before general Ovando arrived at Guayaquil, the third division had voluntarily executed a declaration of their entire submission to the constitution and the laws, and of their obedience to the government. Occasion for employing so large a body of troops against the south, no longer existed. Why then were they put in motion? The departments constituting New Granada, had been steadily faithful to the laws, and hostile to all innovation. The senator Soto, publicly affirmed in his place, that letters had been received from a trust-worthy source, giving assurance that general Urdaneta had instructions to revolutionize the department of Boyaca;

and he denounced by name the persons who were counted upon as disposed to accelerate the revolution. Furthermore, the military bodies in Cartagena, acting by the instigation of general Montilla, addressed representations to Bolivar, offering to support him in overthrowing his enemies, and annihilating the faction at Bogota.

Was it come to this, then, that Bolivar was organizing troops to be marched from the arsenals, where the projects of reform had been forged, with the very chiefs, who had so lately been signalized by rebellion, to command them, and that he intended to reduce by force the incorruptible departments, which alone had proved true to their oaths and their duty? Appearances certainly were most suspicious. The government had no official information of the destination of these troops. Revenga, it will be remembered, had informed the government of the motions of only a few hundreds; and here were thousands upon the march, and further levies making in the plains of Apure. The secretary of war was summoned into the senate, and closely interrogated concerning all these facts. He could only apprise the senate of the truth of the facts; but of the intentions of Bolivar, the government could give no information. The government had issued no orders for the motion of



these troops ; and if they should continue in motion, contrary to his (the secretary's) expectation, he knew not what measures the executive authority would adopt. It was singular, also, that the troops at Carthagena were not within the extraordinary jurisdiction of Bolivar ; because the department of Magdalena had never been separated from the authority of the ordinary national government. Threatening as all these indications were, it could only be hoped that Bolivar had, with the military decision of his character, made these arrangements on the first intelligence of the unauthorized return of the third division ; and that when he learnt that every thing was quiet at Guayaquil, he would countermand his warlike preparations.

A remarkable development of facts was made public at the time, which bore considerably upon the character of Bolivar. The city of Panama had assembled, it should be remembered, in September, 1826, and in behalf of the department of the Isthmus, had proclaimed the Bolivian code, and Bolivar himself dictator, in imitation of Guayaquil. Under date of May, 1827, the municipality of the city addressed to the government a representation of the circumstances, made by the intendant Sr. Juan Jose Argote, for himself, and adopted by them as true. From this document it appeared, that on the 9th

of September, 1826, the notorious Antonio Leóradio Guzman, whose name we repeatedly have had occasion to mention, landed at Panama, from Guayaquil and Lima, and immediately repaired to the house of the commanding general, Jose Maria Carreño. On the 10th, these two gentlemen came to Argote, together, presenting credentials from Bolivar, and stating the object to be the adoption of the Bolivian code, by the municipality and officers, and the proclaiming Bolivar dictator. Argote opposing this as illegal, Guzman replied, that such was the will of Bolivar, that the people desired it, and that the army would bear him out in it. At length, they prevailed upon Argote to assemble the principal persons of the place, and at three successive meetings, they discussed with Guzman the object of his mission, which encountered the most decided opposition. Upon this, Guzman relinquished, or pretended to relinquish, the Bolivian code, and agreed to an act conferring qualified powers upon Bolivar, which was accordingly adopted the 13th, being represented as the special wish of the Liberator. This not being satisfactory to Carreño, various devices were tried, to produce a more decided measure. Parties of soldiers patrolled the streets, celebrating general Paez, proclaiming the Bolivian constitution, and Bolivar dictator of Peru

and Colombia. Every means of intimidation was essayed, short of actual violence, and the intendant at length yielded in despair, as the only mode of preserving the citizens from the admitted persecution of the soldiery; and on the 15th of October, another act was passed, under the dictation of general Carreño. This being done, Argote, in concert with the magistrates of the city, presented a solemn protest against the violence by which these votes had been extorted from them; and deposited the document in the hands of the senator Mariano Arosemena, to be forwarded in due time to the government. Many other disgraceful scenes ensued, Argote being constantly persecuted for his opposition to the alleged wishes of Bolívar: until the events in Peru and in Guayaquil, having shaken the strength of the anti-republican party, gave the municipality courage to represent the facts to the government precisely as they transpired. These statements were all in strict accordance with the representations made by the municipality of Guayaquil, who charged Guzmán with not only insisting upon their resolutions of the 26th of August, 1826, conferring the dictatorship upon Bolívar, but procuring them to be altered after they were passed, to make them more conformable to the wishes of Bolívar.

Such a combination of circum-

stances at this time, all tending to render the past designs of Bolívar an object of hatred, and his present ones of suspicion, necessarily prepared the people of Bogota to anticipate the worst. The agitation and anxiety which prevailed, may possibly have given rise to the rumour, which became current in the city, that a popular movement there was approaching, in opposition to Bolívar. It is even dignified with the name of a conspiracy. Nothing is more absolutely improbable, and destitute of all rational foundation. A conspiracy by whom, and for what purpose, at a moment when the city was surrounded by the armies of Bolívar, and which must inevitably be crushed, before it could accomplish any thing? It was a much more probable supposition, that the story was forged, perhaps for the purpose of giving Bolívar a pretext for marching his forces, or at least, for hastening his own arrival at Bogota. The particulars of this supposed conspiracy occupied a prominent place in the newspapers of the United States during the last autumn: but a short examination of the account will show, that the whole is an absurd fabrication.

It was derived from letters dated at Carthagena, evidently either written by some of Bolívar's hot-headed military partisans, or else on information communicated by them for the purpose of being published. They

described it as "*a revolution attempted by Santander and his partisans, the design of which was, that Carlos Soublette, secretary of war, the senators Baralt, Arboleda, Torres, and other members of congress, general Sands, colonel O'Leary, and others, to the number of one hundred and fifty, should be arrested, and sent in chains to Cartagena.*" It was further stated by these letters, that Bolivar had put in motion large bodies of troops, for the purpose of marching them to Guayaquil, and tranquillizing the departments of the south, which were thrown into disorder by Bustamante and the third division, acting under the secret influence of Santander. The vice president, it was further asserted, was throwing the state into confusion, in order to prevent an investigation of his alleged peculations in the foreign loans, and the mines. And, actuated by this motive, he had, contrary to the advice of his counselors, obstinately refused his signature to the decree for convoking the grand convention, after its passage through both houses of congress. And to work up the whole matter into the most dishonourable form of public corruption, it was alleged, that the Colombian navy was rotting at Cartagena, and the seamen starving in the streets, under the mismanagement of a confidential agent of Santander; whose maladministration had diverted the

finances of the country from their proper channels and thus prevented the payment of the interest due on the national debt, and reduced the republic to bankruptcy. Finally, it was said, that the chief actors in this conspiracy, expecting condign punishment for their crimes, dispersed in consternation at the intelligence of Bolivar's approach to Bogota; and that Santander himself would fly to Lima for refuge. Never was a more mischievous mass of absurdity and falsehood sent abroad to abuse the public curiosity, and asperse the characters of men of spotless integrity, and the most unwavering patriotism. We have given barely the heads of the story; which exhibits so much ignorance of the true state of facts at Bogota, that we might almost imagine it was merely a piece of pleasantry, if the inflammatory spirit of exaggeration which pervades it, did not betray a more malignant origin.

It is quite edifying to hear of a revolution against Bolivar, headed by Santander, and his partisans. Who were Santander and his partisans? They were the constitutional government of the land; namely, the executive, and all the heads of department, except one; and all congress, and the other civil officers of the government, except a few individuals, who were striving to overturn the constitution. The vice president and the

legislature did, as we have seen, go hand in hand in all the important public measures of the session; among which were the decree of amnesty, and the decree declaratory of the fact, which every body knew before, that Bolivar became a simple citizen, so soon as congress assembled; and that all his acts of authority, subsequent to that time, were open violations of the constitution. Congress had just refused to accept Bolivar's reannunciation of the presidency; and Santander himself, in communicating the vote, had urged the Liberator, in the strongest manner, to comply with the general wish of himself, and of a majority of the legislature. Under such circumstances, no conspiracy existed, unless to get Bolivar into the presidential chair: no revolution could be plotted, unless adherence to the laws and constitution, and resistance to the armed infraction of them, deserve to be called a revolution.

Again, the letter writers profess, that the object of the revolution was, to arrest Bolivar's personal friends, and send them in chains to Cartajena. To what end? In all Bogota, in a populous city, filled with respectable inhabitants, including most of the members of government, it seems there were one hundred and fifty friends of Bolivar: and they were arrested, and—put in confinement? No; sent to Car-

tajena, where the Liberator himself was perfectly well known to be, with an army of four thousand men. So that, if the story is to be believed, Santander and his partisans, instead of detaining Soublette, Sands, Baralt, Arboleda, and the rest, at Bogota, as hostages for Bolivar's conduct, designed to drive them out of the city into the camp of Bolivar, to add their tried talents and exasperated minds to the military strength of his cause. The thing is too ridiculous for belief.

The later writers further charge Santander with having instigated Bustamante's unauthorized return to Colombia. The denigratory newspapers of Venezuela even accused him of being at the head of the Peruvian revolution; and the newspapers of the United States, which republish South American accounts, without sufficient caution, seemed to give credit to the report.

As to the Peruvian revolution, the thing was not threatened or in season, to have obtained the previous approbation or concert of Santander. He rejoiced to see, when intelligence of the revolution reached Bogota; and what could he do, and not? As to the third division we have incontestible evidence before us, that the news of their unexpected return filled not only the southern departments, but also the central ones, and the members of the government themselves, with consternation and confusion. Another fact

is equally conclusive. When Mosquera sent his flag of truce to colonel Elizalde at Monte Christie, Elizalde declared that he would not obey Bolivar, because he was a tyrant and usurper; nor the vice-president, because he was leagued with Bolivar, and because, moreover, his functions had terminated the 2d of January. Again, Santander despatched to the general officers in the south, the most peremptory orders, that if the third division did not instantly submit they should employ all the means in their power, to disperse, beat, and punish the criminals, and defend the country against their daring aggression. In short, the auxiliaries returned to Colombia, with their feelings exasperated by the republicans of Lima, against the Liberator and Santander alike. It is idle, therefore, to pretend that Santander was the adviser of Bustamante, how much soever he may have rejoiced to find that Bolivar's chosen hands, who had sworn fidelity to him as an individual, were no longer disposed to continue his passive instruments in the work of usurpation.

The other more direct imputations against Santander, are equally groundless and calumnious. When the rumour of the conspiracy reached Bogota, from Cartajena, where it originated, Santander boldly demanded of congress an investigation of his conduct, and

of every thought, word, and deed of his political life: challenging any person to adduce the slightest proof, that he was privy to any conspiracy, or any attempted revolution; or that he was interested, directly or indirectly in the foreign loans, or mining speculations: and congress treated the accusations with the scorn which they deserved. Our readers will judge for themselves, whether it is probable, that he felt that he had any thing to apprehend from the convention, when they recollect, that, so far from refusing his signature to the decree for evacuating it, the decree, on the contrary, was modelled according to his advice, and passed with his previous approbation officially expressed.

Santander is equally free from blame in regard to the dilapidation of the navy, and the failure to pay the interest on the national debt. The latter is, indeed, a dark and suspicious subject; but all the suspicions fall upon the same head, where so many other mysterious circumstances are assembled. The facts respecting it are briefly these. Colombia had voluntarily incurred enormous expenses in supporting the patriot party in Peru, in the last year of their struggle for independence: and part of these expenses, for instance, the pay of the troops, Peru stipulated to reimburse to Colombia. The agents of Peru in London, were to be provided with

funds by their government; and the Colombian government was to draw upon them in favour of Hurtado, the Colombian minister in London; and the money to be obtained from this source, in the beginning of 1826, was to meet the dividends due in July. But the bills so drawn were dishonoured: and, although the vice-president convoked Congress, in May, to provide other funds, and other funds were provided by Paez, and his adherents in the departments bordering on the Atlantic, compelled the government, for the sake of immediate self-preservation, to appropriate these funds to the payment of the arrears due the troops in the northern cantonments. Now the remarkable fact is, that the Peruvian government, which had failed to ratify the Colombian bills, was neither more nor less than Bolivar himself, who, at that time, possessed the supreme authority in Peru, and exercised it, either in person, or through officers appointed by him, in the shape of a council of administration. Was he consenting to the dishonour of these bills, with a view to aggravate the embarrassments of the Colombian government, by adding bankruptcy to civil war, and thus facilitating his access to the dictatorship of Colombia and Peru? We do not say this; and we deeply lament that so many of these dark suspicions cast their shade over the laurels of Bolivar.

But we do say that Santander is wholly blameless in the affair, except in so far as he is censurable for reposing trust in the arrangements of the Peruvian government. And as to the fleet in Cartagena, it is certain, that the insurrection of Paez, and the special orders of Bolivar himself, were the immediate cause of the suspension of their equipment for sea.

We shall presently see whether Santander, or any other person, fled from Bogota on the approach of Bolivar. Indeed the imputations against the character of the vice-president, which we have thus cursorily examined, are but a specimen of the groundless slanders, with which the presses in Venezuela have abounded; and they constitute a part of the machinery set in motion by the disaffected and anticonstitutional party, for the purpose of disorganizing the existing form of government. It is due to the public reputation of general Santander, to say that, considering the difficult circumstances in which he was placed, he has administered the government ever since the year 1821, with a single eye to the public good, and with prudence, wisdom, patience, and skill, which are in general as rare, as they are honorable to his character in the particular instance. While Bolivar was marching to Peru with the flower of the Colombian troops to gather laurels in the glorious ca-

reer of victory and freedom, Santander continued fixed at the seat of government for the period of five years, absorbed in the perplexing and unpopular duties of healing the wounds of a country torn by eleven years of desperate warfare, and consolidating a government just emerged from a scene of unparalleled confusion, distress, and universal prostration. He was called to the government without any solicitation upon his part; and his constant devotion to the arduous functions of his station is familiarly known to every Colombian, who is not wilfully blind to the truth. A review of his administration, and a comparison of the general state of the country in 1826, with what it was in 1821, would demonstrate the beneficial influence of his patriotic services. They who wish to understand the obscure subject of South American politics, would do well to peruse the elaborate vindication of Santander's administration, published at Bogota in June, while the charges to which we have adverted were in circulation; and they can afterwards entertain no doubt that his intentions have been just and patriotic, and his conduct generally wise and prudent. •

The malcontents in Venezuela indulged in the most intemperate invectives against Santander previous to and during the insurrec-

tion of Paez. But they discreetly confined themselves to vague generalities, without ever specifying facts, or fixing a single instance of partiality or corruption upon his conduct. The secret of it seemed to be that a victim must be found. The constitution was to be subverted, and it could only be effected by assailing the individual, under whose auspices the constitutional government had been administered. After carefully studying the correspondence between Paez and Santander, and the printed acts of the government, we have become completely satisfied, that Venezuela had no just cause to complain of Santander individually. Apart from the criminals, who, by the movement at Valencia of April 30th, sought to shield themselves from punishment for their offences—and of the soldiers, if such there were, who promoted the insurrection for the purpose of aiding any ambitious designs of Bolivar:—apart from these persons, the malcontents in Venezuela were generally ever dissatisfied with a central system, and desirous either of having an independent government, or else a federal union like the United States. We should have sympathized with the latter class, if they had united themselves to just and honourable means of accomplishing their object, instead of seeking to sacrifice Santander

by unfounded accusations, and to involve Colombia in anarchy and civil war.

At a late period, the reform party accused Santander of being the personal enemy of Bolivar, and of striving to prevent the amendment of the constitution. If to have stood fast in his integrity through good report and through bad; if to have defended the cause of constitutional order, through obstacles and assaults, which other men yielded to in despair; if by mingled firmness and moderation to have preserved Cundinamarca, Boyaca, Cauca, and Magdalena, from the contagion of insurrection or servility, which infected the surrounding departments; if, by the prudence of his conduct, to have shunned the horrors of intestine war, which the insurrection of Paez threatened to end in; if temperately, yet independently, to have reminded Bolivar of his duties to the constitution and to Colombia, thus contributing to preserve the Liberator from the infamy of usurpation; if by continuing with unshaken fortitude to resist the liberticide project of the Bolivian code, and the consolidation of all South America, under a perpetual presidency, thus to have warded off from Colombia the fate of the commonwealth of Rome, of England, and of France, that of falling a victim to some too glorious soldier of fortune, a Cæsar, a Cromwell, or a Bonaparte: if to have

borne his part in doing all this, constitutes Santander the personal enemy of Bolivar, then he deserves the appellation, and may pride himself upon bearing it for ever. In fine, if Bolivar has been honest and patriotic, then has Santander been his friend: if not, then has he been his foe. Santander certainly has exhibited no eagerness after power: because he has repeatedly requested congress to discharge him from the duties of his office, in all apparent sincerity. And whatever may be his inward feelings of distrust towards Bolivar, he has earnestly, constantly, and with most cogent reasons, intreated Bolivar to resume his station as president of the republic. During Bolivar's onerous delay in Peru, whilst all Colombia was urging his return, and no visible cause of an honest nature existed for his delay, Santander besought him as a friend, and urged him as his colleague in office, to repair immediately to Bogota. And so also during Bolivar's equally inexplicable stay in Caracas for four months after all occasion for his presence in Valencia had ceased, Santander used the strongest instances to induce him to withdraw his renunciation of the presidency. Even so late as June, in communicating the refusal of congress to accept Bolivar's renunciation, Santander expressed, as before, the warmest desire to see the Libera-



tor in his proper station, as constitutional president. After knowing these facts, it is impossible, with any show of reason, to charge Santander with a disposition to exclude Bolivar from the chief magistracy of the republic.

We have gone over this topic somewhat minutely, because the discussion of it is well fitted to develop the condition of Colombian politics, during the period which the history of the present year covers. We have not the slightest faith in the alleged conspiracy. General Santander and his associates in the government were too wise to strike the first blow in a civil war, where most of the physical, and too much of the moral force of the country, was on the opposite side. They continued to await the result, faithfully discharging in the mean time the laborious duties of the administration. At this period, the country obtained relief from one grievance, which had long afflicted it, namely, the want of prelates in several of the most important sees, which had arisen from the refusal of the pope, hitherto, to countenance the patriots, by concluding a satisfactory arrangement of their religious affairs.

Soon after Bolivar arrived at Caraccas, he informed the vice-president, that, in placing the departments of Sulia, Orinoco, Venezuela, and Maturin, under his own com-

mand, he did not intend to assume the direction of their foreign relations, or to separate them in this respect from the rest of Colombia. Accordingly, he transmitted to Bogota the foreign despatches which came to his hands. Among them was a communication to the government from Sr. Ignacio Tejada, the Colombian minister at Rome, of the highest importance to the country, and indeed to all Spanish America. It covered a letter from pope Leo XII., announcing that the apostolic see had, at length, yielded to the representations of the Colombian government, made in 1821, and determined to fill the vacant bishoprics in Colombia. Afflicted, he said, by the injury done to religion, through the want of regular pastors, in the several churches; and impressed with respect for the zeal entertained by the Colombians for the catholic faith, he had adopted this resolution, from conviction that the good of the church imperiously required it. On the receipt of this letter, as unexpected as it was agreeable, the government proceeded, without delay, to fill the vacant sees, the pope having signified to Sr. Tejada that the nominations would be confirmed. On the 19th of July, the ecclesiastics presented by the government Fernando Cacerdo, archbishop of Bogota; Ramon Ignacio Mendes, archbishop of Caraccas; and Jose Maria Esteves, bi-

shop of Santamarta were qualified in the presence of a concourse of the public functionaries and clergy, the oaths being administered by Sr. Restrepo, the secretary of state for the interior. So entirely unhopèd for was this favourable result of the negotiations with Leo XII., that passports had already been granted to Tejada, it being considered by the government wholly useless that he should continue any longer in Italy.

Early in August, a law passed congress for reducing the effective force of the standing army, in garrison in different parts of the republic, to 9,980 men, to be distributed as convenience and the public good might require, the executive being authorized to make further reductions, when compatible with the security of the state. This measure was called for, as well by the pecuniary embarrassments of the nation, as by the manifest inconvenience and danger to liberty, of keeping under arms so large a military force, when there was so little cause to apprehend any thing from foreign invasion.

Threatening as the aspect of things had been thus far, they were destined to approach yet more nearly to a fearful consummation, before Bolivar reached Bogota. In the first place, a new series of disorders and convulsions occurred unexpectedly at Guaya-

quil, in the southern extremity of the republic, which generals Flores and Perez, both of them reputed friendly to Bolivar, were accused of contributing to produce. Flores, who held the post of commandant general, was charged by Larrea, intendant of the Equador, with participating in the proceedings alluded to; and in vindication, as he said, of the purity of his intentions, adopted the questionable expedient of abandoning his post, as he had done before on the return of the third division. Perez was formerly Bolivar's secretary, as we stated before, and when the latter came from Peru, was appointed superior chief of the south. This not being an office authorized by law, the executive authority, in consideration of the supposed tranquillity of the southern departments, by orders transmitted in June, restored the regular course of departmental government, and put an end to the extraordinary functions of general Perez. Amid the confusion of the times, the conduct of this officer was such, whether innocently or otherwise we will not say, as to augment the public disorders. Pretending to believe that Guayaquil intended to join Peru, he caused Flores to march against the city, contrary to the arrangements of the general government. But strange as it may seem, the contemplated attack resulted in no-

thing except an act of the municipality adopting the federal government.

This act is dated July 25th, and sets forth various considerations as having induced its adoption, among which the apprehension of invasion from Perez,—the transfer of authority to Ovando, who was hostile to the reform party,—the evident desire of the government at Bogota to maintain the constitution, and the wish of Guayaquil for a convention,—all bore a prominent place. “It having always been our anxiety,” they say, “to constitute an independent state, and to be united with the other departments, who also ardently desire the same, we have deemed it right and necessary to declare ourselves, as we do declare ourselves from henceforth, in favor of the federal system.” They further express their disposition to concur in sending delegates to a grand convention, to be called pursuant to the promise to that effect solemnly given by the Liberator. Accordingly they proceeded to choose Diego Novoa intendant, and Antonio Elizalde commandant general of the department; and these persons immediately entered upon the discharge of their respective official duties.

Again, on the 10th of September, another revolution was attempted at Guayaquil headed by Jose Arrieta, one of the leading officers of

the third division, who endeavoured to make a party in favour of joining Peru. He liberated the prisoners, seized upon the artillery, and demanded the deposition of Elizalde; but the latter, being firmly supported by Novoa and the municipality, and also by the battalion Ayacucho, succeeded in completely quelling the disturbance. In the utter confusion of various parties which distracted Guayaquil, it seems impossible to be certain who was honest in purpose and who dishonest; but the republican party at Bogota could not but suspect the same hand, to which other movements had seemed to point; and Elizalde himself openly declared for the Liberator.

The course that events were taking, still further appeared, from the altered conduct of the third division. In April, not five months before, the soldiers of this division had exhibited every symptom of determined hostility towards Bolivar, founded upon a belief that he was aiming at absolute power. Their tone was totally changed in August. The several corps each addressed an humble, we might justly say, an humiliating memorial to Bolivar: expressing their contrition for their share of the revolution of January 26th, and the subsequent irregularities; and excusing themselves in some way pertinent to the line of conduct they had respectively pursued. It is amusing to reflect

upon their different excuses. The battalion of Caraccas alleged that they had no heart in the business, and were driven into it by the other corps; which was partly true, saving that the battalion did not resist their comrades so stoutly, nor repent so soon, as they should have done, if sincerely opposed to their plan. The battalion rifles seemed to think they had atoned for their offence, by having ventured to arrest Bustamante, the actual head of the division. The hussars protested that they had taken no part whatever in the Peruvian revolution. The battalion Ayacucho, who had no such apology to offer, contented themselves with protestations of their profound repentance, and their determination to atone for what they had done, by future servility proportioned to the magnitude of their past delinquency. "Deign," said they to general Flores, "to be the organ of the sentiments with which we render the most profound homage of love and respect to the Liberator, to whom we tender from henceforth our strength, our swords, and our hearts; and for whom we declare ourselves, in whatever contingency his exalted reputation may be involved, in the course of circumstances, through the machinations of a faction animated by the hope of vengeance, by ambition, and by ignorance." And again: "It is the voice of Bolivar which we feel

bound by interest and gratitude, *blindly to obey*; since, whatever may be the commands that emanate from him, we are sure they will be just and beneficent, and such as require a dutiful submission." And to crown the example of servility, general Flores, in transmitting the memorials to Bolivar, assured him that "the corps of the south stood ready to make any, the most costly sacrifices" in his service; and that "the Liberator might count at all times, and in all circumstances, upon the hearts and swords of thousands of brave men, signalized in past dangers, and *who now consecrated themselves to the creator of three republics*, the incomparable Bolivar." In short, the third division declared, as strongly as language can convey the meaning of man, their devotion to Bolivar individually and personally, without any reference to the government or the constitution; and this at a time when, for aught they knew, he was merely president elect, but without any legal authority, other than as a general officer. What more could Caesar or Napoleon have asked from the armies of Gaul or of Italy, whom they had attached to their own names by a long series of splendid victories? and what more can Bolivar ask, if he is treading in their footsteps?

The proceedings in the central departments, at the same period, amounted to an actual conflict of

authority between Bolivar and the regular constitutional magistrates and officers. Revenga notified the secretary of war, under date of July 25th, that the squadrons of horse grenadiers and lancers, of Magdalena, would be moved on to the valleys of Cuentá, partly as an escort for Bolivar, and partly to diminish the number of troops assembled in Cartajena. The vice president immediately caused Revenga to be informed, that the departments of Boyaca and Cundinamarca could as ill afford such an addition to their expenses, as Magdalena, and of course objected to the movement. Nevertheless, Urdaneta marched his cavalry to Pamplona, protesting to the intendant of Boyaca, that he had not the least intention of interfering with the legal functions of the departmental authorities, civil or military; and asking only the usual supplies. Information of these movements was promptly communicated to congress, by Santander, who described the troops as occupying the departments of Magdalena and Boyaca, independent of the national government, and by orders from the Liberator alone; who possessed, and could possess, no legal authority there, until he had taken the oath of office according to the constitution.

Contemporaneously with these movements, the executive received a note from Revenga, in reply to the communication covering the

decree for the re-establishment of public order. 'The secretary general vindicated the proceedings of Bolivar in the north eastern departments; saying that the military councils, objected to by Santander, had long since ceased to exist; that the restraints upon the press had aimed to repress its licentiousness, not to impair its freedom; and that the financial measures of the Liberator were exacted by necessity. He complained, also, of the injurious suspicions of Bolivar, which the decree and accompanying note implied; and intimated his intention of submitting a memoir to congress, in justification of the measures adopted for tranquillizing Venezuela.

But a paper, much more important than this, was the message addressed by Bolivar to the senate, upon his arrival at Cachira, the 24th of August, in his way to Bogota. There he received the decree of August 8th, for reducing the army; and by the same contrivance, despatches communicating the new insurrection at Guayaquil. The message elaborately exposed his belief in the pernicious consequences of reducing the army at the present conjuncture, which, he said, decidedly demanded its increase. He protested against the measure in the strongest terms; and urged upon congress the circumstance of the movement in Guayaquil, which seemed to have

happened just at the proper moment to show the inexpediency of disbanding any of the troops. One passage deserves to be translated, as showing, unequivocally, that neither in Venezuela, nor in the south, have the honest friends of the federal system any ground to hope for aid from Bolivar. He ascribed the insurrection to the third division, who, after passing through various acts of insubordination, had ended with favouring a vote for proclaiming the federal system, got up by a cabal, who had sought, during the past year, to give that form to the government. "These men," he said, "I succeeded in restraining, acquainting them through my secretary, and, by the project of a fundamental law, where-with I satisfied the request of Bolivar, that my decision was, for a central government, better adapted to our necessities. The federation, which is now proclaimed, is only a step leading to the traitorous object of those who invaded the southern departments." He commented, also, with great severity, upon the proceedings at Bogota, not concealing his doubts whether the representatives of the people would find it practicable to assemble, and deliberate in peace. The reply of congress was brief, and without entering into the reasons of the measure; but urging his speedy appearance at the seat of government.

Such was the state of things in

Colombia during the interval between the assembling of congress, and the arrival of Bolivar at Bogota, in obedience to the vote of congress refusing to accept his renunciation of office. He made his entry into the capital on the 10th of September. About a league from the city he was met by the civil and military authorities of Cundinamarca, who, in the name of the inhabitants of that department, addressed the Liberator in terms expressive of the hopes they entertained that the event would be the prelude to a re-establishment of harmony among the differing interests of the nation, and the opening of a new era of prosperity to the republic. The Liberator in reply, declared his sincere intention to dedicate his services to his country, and his hopes that he might contribute to restore tranquillity, and to fasten anew the ties of union, which unhappy dissensions had well nigh rent asunder. Shortly afterwards he was met by a deputation from congress, who informed him that body was now assembled, and ready to attend to his installation as president. Accompanied by the authorities and an immense concourse of citizens, he proceeded to the church of St. Domingo, where congress had assembled, and took the path prescribed by the constitution, after which he pronounced an address of the following tenor :

"When I first accepted the charge of the presidency, I promised to support the constitution as far as lay in my power, that is, as a soldier.—Pledged to the war of independence, I marched to the south, and effected the liberty of all that territory which was under the Spanish dominion. The republic was made entire. Peru called for the protection of the Colombian army, and confided its destinies to my hands; she named me dictator. I triumphed completely over her enemies; and under the shade of the liberating Colombian flag, two sister republics were born, Peru and Bolivia. Discord divided Colombians. The north struggled to break the fundamental laws. Fratricidal cannon were thundering. I flew to appease the tumult, and by a single decree re-established peace and union. Public order and tranquillity were afterwards restored. The congress heard the general cry of the nation, imperiously demanding reform. The grand convention was summoned, and by this means congress has saved the republic. The actual situation of Colombia now merits the consideration of the congress, which must, in its wisdom, weigh the measures I have suggested, and give or deny to them, its approbation. The secretary general will present the memorial. In spite of the dismemberment with which the republic has been

threatened, in spite of the almost anarchial condition of the south of Colombia, I hope and even promise the congress to deliver over into the hands of the grand convention, the Republic of Colombia **FREE and UNITED.**"

After the ceremony of taking the oaths of qualification was completed, the Liberator-president proceeded to the government house, where he was received by the vice-president, the judiciary, and other executive officers of the government, and addressed by the vice-president as follows :

"After all the demonstrations of love, respect and confidence, shown to you by the people, I, who am also a member of the supreme administration of the state, must confine myself to expressing to you our gratification in seeing you restored to the capital of the republic, and in possession of the supreme authority which the nation has conferred on you. What other wishes can be ours than those which flow from hearts that love their country, are faithful to its institutions, anxious for its stability, and interested in your glory ! They are, assuredly, none other than to see the Republic again united under your authority, the parties which have distracted it destroyed, public quiet re-established, the rights of the people secured, and the laws, liberty, equality, and your transcendant reputation, tri-

umphant. Should this be the result of your efforts in the exercise of the supreme national authority, which we all expect with perfect confidence, the vicissitudes of the republic and the troubles which have afflicted your mind, as well as ours, will but have served as a crucible to purify our love for liberty, and for what renders us deserving of it, for the power and stability of Colombia, and for yourself. We will spare no efforts that may contribute to the tranquillity and happiness of Colombia, and to the glory of our government." Finally, to complete the ceremonies of the occasion, the foreign agents and *chargés* were presented to the Liberator on the 13th, and made suitable addresses of congratulation.

Bolívar was become, then, constitutional president of Colombia; and had taken the oaths of fidelity to the constitution, a step which there is much reason to fear he would not have taken, had he not been fully convinced, by the events of the last spring and summer, that the whole nation, save a few military chiefs, were determined, cost what sacrifices it would, to maintain the liberties of their country to the last moment of their lives. But, notwithstanding the loud indignation expressed by so many persons at the alleged designs of Bolívar, he had never, thus far, uttered any denial of the projects imputed to

him: he had never disclaimed, he did not now disclaim, the intention of forcing the Bolivian code upon Colombia. He continued, therefore, of necessity, an object of suspicion; but, in concert with congress and his associates in the government, he proceeded to exert his efforts to give efficacy to the laws, and to preserve the public tranquillity, until the grand convention should assemble. The decree for calling this great national assembly having been passed and promulgated before he assumed the government, he could not but acquiesce in it, although it was understood that he would have preferred an act affording greater facilities for the introduction of reform. Doubtful as the expediency of this measure seems to us, yet, perhaps in the actual condition of things, the friends of liberty and of their country, avoided a worse evil, by consenting to all that the honest reformers in Venezuela could ask. It remained for them to fill the convention with men of experience, talents, firmness and tried republicanism, who might defend the rights of the people skilfully as well as boldly, and defeat the plans of those who sought to establish the Bolivian code, with its perpetual dictatorship. As the most respectable portion of the Venezuelans desired only to change the form of the government into a federal union, in place of the centra-



system, it was hoped that they, united with the friends of the existing constitution, would at least constitute a powerful majority in favour of a republican government of some kind, and thus preserve Colombia from the disgrace of becoming a monarchy, under whatever name or pretence the regal authority might be disguised.

Congress having been convened by Santander, for the sole purpose of administering the oaths of office to Bolivar, one of his first acts, after being installed, was to continue that body in session, in order to receive his communications on the subject of the northern departments, and upon the general condition of the republic. Deciding the state of Guayaquil an equally urgent object of attention, Bolivar issued the following singular proclamation, the next day after his entry into Bogota.

"Inhabitants of Guayaquil! The torrent of civil dissensions has hurried you on to your present unhappy condition. You are the victims of the lot which you should have sought to shun at all hazards. You are not culpable; and no people ever is, because the people desire only justice, repose, and liberty ;

erroneous or pernicious sentiments ordinarily belong only to their leaders ; they are the causes of public calamities. I know you, and you know me, and we cannot fail to understand each other. Let those who seek to mislead you, desist then, that we may embrace once more, like affectionate brothers, under the shade of the laurels, the laws, and the renown of Colombia.

"Government House in Bogota, September 11th, 1827.

"BOLIVAR."

The next day, Bolivar restored the several secretaryships to the loading upon which they stood previous to his return from Peru, the office of secretary general being abolished. Thereupon, Restrepo, the late secretary general, submitted to congress an elaborate exposition of the proceedings of Bolivar, in the north-eastern departments, all which were sanctioned, confirmed, and continued in force by the following decree, which may be considered as a sort of universal indemnity act, giving the solemnity of law to his dispositions there, and sheltering himself from any subsequent imputation of unconstitutional conduct in this behalf.

*Decree continuing in force the Regulations of the Liberator, President in the Departments of the East.\**

*The Senate and House of Representatives of the Republic of Colombia, in Congress assembled,*

In view of the memorial of the secretary of state and foreign relations, charged with the functions of secretary general of the Liberator-Presi-

\* We have changed the title of the decree.

dent, under date of the 10th instant, wherein he gives account to congress of the condition of the departments of Suñia, Matuin, Venezuela, and Orinoco; and of the measures taken by the Liberator President, under the imperative necessity of circumstances; and considering.

1. That the general confusion of these departments excited prompt and efficacious remedies:

2. That the happy re-establishment of the peace and tranquillity of said departments, is principally owing to the measures adopted by the Liberator President, to re-organize them; and the preservation of blessings so precious, is the first duty of congress:

3. That sufficient time has not elapsed, to be enabled to judge by their effects, whether these regulations accomplish all the objects of public utility, which the Liberator President proposed to himself in dictating them:

#### DO DECREE,

**ART** The measures taken by the Liberator President in the departments of Suñia, Matuin, Venezuela, and Orinoco, and which are still in force, shall continue to be observed at the discretion of the executive power; which may modify, and gradually re-establish legal order, conformably to the decree of the 19th of June last, in whole or in part, according as may be deemed convenient, in reference to existing circumstances.

Dated at Bogota, September 24th, 1827.

Soon afterwards, the extraordinary session of congress terminated, without passing any other laws, which it is very material to our plan to mention. Colombia continued to all appearance tranquil, down to the close of the year. Paez had published a very pacific proclamation in Venezuela, exhorting all persons to maintain unity

and good order, and patiently await the meeting of the convention. No political event of any moment occurred in the departments under his command, unless the arbitrary banishment of Rafael Dominguez he considered such an one. This person had distinguished himself as editor of the Colibri newspaper in Caraccas, by the freedom of his remarks on the proceedings of the government; which, as too frequently happens, tended rather to exasperate party animosity, than promote any useful purpose. Bolivar, on the other hand, anxious perhaps to annihilate the disgraceful publications issued from the press of Cartajena, Caraccas, and other places, previous to his leaving the northern departments, directed the intendants of the departments, to cause to be collected and burnt, all papers, which appeared during the late period of public excitement, in which individuals were assailed; that everything calculated to awaken acrimonious feelings might be buried in forgetfulness, and the decree of amnesty and oblivion passed by congress, be carried into full effect. We have nothing else to record, except the earthquake, which happened at Bogota, November 15th, and produced very extensive and serious injury to public buildings, and many private dwellings; the whole loss being estimated at several millions.

All men seemed disposed to hope for the best from Bolivar's future conduct. They, who had been his firmest adversaries, began to form a new series of expectations. It was perfectly plain, and had been for nine months past, that if Bolivar would but decidedly express his adherence to the constitution, every vestige of opposition would disappear instantly. He held the means of peace or war in his hands.

This justly celebrated man had once been the idol of the sternest republicans, proud to have him as their head and their champion; and they heartily wished his glory might again be the most brilliant ornament of Colombia. They were far from admitting that his fame had reached its climax, and that there remained no additional laurels for him to gather. They conceived that a noble field was now opened for him, by entering which, he might encircle his name with a purer splendour than it had ever yet worn. This new path to fame consisted in his obtaining a complete triumph over no less a person than the great hero of the south himself, the founder of three nations; the man of his age. Bolivar had triumphed over every thing, even dishonour itself; but

it remained for him to triumph over himself—his own ambitious passions, and his own pernicious projects; to triumph over the intoxication of his prosperity, his power, and the dazzling splendour of his own glory. This was a triumph which freemen would deem it an honour for Bolivar to achieve. He had created three great republics by the impulse of his genius, and the power of his armed right hand; and it only remained for him, that he should bend his genius and his courage to the empire of the law, the only empire corresponding to his pre-eminent services; that at the head of the nation he should condescend to be the first subject of the constitution, proceeding step by step in the course it prescribed; that he should free himself of the servile and selfish advisers, who sought to make his elevation to supreme power the means of gratifying their own ambition, and admit to his private counsel none but such men as Mendoza, Santander, Soublotte, Casullo, Restrepo, Vargara, and other tried friends of their country: and doing all this, he would establish the liberties of Colombia on a foundation of adamant, which the lapse of years could not shake.

## CHAPTER X.

*Peru—Bolívar in Peru—Departs in September—His Council—Congress of 1826—Their Address—Decrees thereon—Circular of the Council—Acts of the Province of Lima—Tarapaca dissents—Other Provinces unanimous for the Bolivian Code—Supreme Court refuses to ratify their Votes—Counted by the Municipality of Lima—Decree of the Council, that the Bolivian Code is adopted, and Bolívar President for Life—He is proclaimed, and the Constitution sworn to—Dissatisfaction—Third Division of the Colombian Army—Lara perceives their Discontent—Conspiracy of the Patriots—Colombian Troops declare against Bolívar—Conduct of the Council—Bustamante's Proclamation—Citizens of Lima renounce the Bolivian Code—Santa Cruz provisional President—Pando—Old Constitution restored—Colombian Troops leave Peru—Congress meets—La Mar chosen President—His Character—Proceedings of Congress—Conclusion.*

In the new states of South America, revolution succeeds to revolution with hasty steps; and the history of each year affords some striking example of national vicissitude, as complete as unexpected. One ephemeral government follows after another, rising and falling with strange rapidity, like the waves chasing each other along over the face of the sea, the foremost soon lost in those which hurry on behind it. Constitutions are made, sworn to, and annulled, seemingly, with greater levity, than we, in the sober progress of affairs in the United States, should think

it decorous to make and repeal an ordinary law. The recent revolution in Peru, is a remarkable instance of this; for, of the bloodless changes which have taken place in the south, none, perhaps, has been more memorable, whether for its extraordinary suddenness, for the circumstances attending it, and the consequences which have ensued, or the influence it has exercised, and is likely to exercise, upon contemporary events in the neighbouring countries.

Our history of the year 1826, left Peru in the month of September, when Bolívar departed for Co-

lombia. His long delay, after he had received intelligence of the insurrection of Paez, was a subject of mystery, and afterwards of suspicion; but was at last too clearly disclosed. The surrender of the fortresses of Callao, by effecting the liberation of Peru from the last remnant of the Spanish armies and influence, had accomplished the object for which Bolivar and his Colombian troops had marched to Peru. The continuance of the auxiliary army in the country, was an intolerable expense; and for no proper object, which the Peruvians could discern. But that of Bolivar himself was yet more inexplicable. By one plausible pretext and another, he contrived to prevent the assembling of a regular congress in 1826, and thus retained the supreme authority, although without any vote of the nation, or of any body of persons entitled to speak the voice of the nation. For if the delegates of 1826 were not legally a congress, they were not legally any thing; and of course, their vote, continuing Bolivar in power, merely carried the semblance of authority, but possessed none of its substance. Hence the growing jealousy of Bolivar in Peru, gave rise to conspiracies, which enabled him to strengthen his power, by banishing some of the firmest republicans; and thus Peru lost, for a time, the services of Luna Pizarro, Nicoeira, and

others of her patriots. But they carried abroad with them such an idea of his intentions, as contributed to fill Chile, and the provinces of La Plata, with alarm; which, being out of the reach of his power, they scrupled not freely to express. And, whatever unwillingness the Peruvians might have felt to distrust the integrity of his views; whatever reluctance to accuse him of aiming at tyranny, their gratitude for his eminent services might inspire, his last acts in Peru, left them no alternative.

Long before he quitted Lima for Guayaquil, he well knew that civil war threatened to stain the plains of the Apure, and that nothing but his unaccountable absence occasioned the danger. But he did not leave it long uncertain for what object he remained. It was evident he wished to perpetuate his power over Peru, and after imposing the Bolivian code upon the people, to unite Colombia, and the two Perus under his authority as president for life. Ever and anon it was given out that he was on the point of departing; and thereupon deputations were got up by his adherents, to entreat him to remain for the sake of Peru, and sacrifice his own wishes in her behalf, by retaining the power which he was anxious to resign. These devices were kept in play until he had completed his arrangements for

establishing his dictatorship, as he confidently believed, in Bolivia, Peru, and the southern departments of Colombia, which Leocadio Guzman was despatched to revolutionize. We have adverted to the machinery by which the latter object was effected; and it was not long after this was done, ere Bolivar set out for Venezuela, which he designed for the next scene of his operations. Our first business now is to show how his object was effected in Peru.

On his departure he committed his usurped authority to a council of government, consisting of general Andres Santa Cruz as president, D. Jose de Larrea y Loreda, minister of the treasury, D. Tomas Heres, minister of war and marine, and D. Jose Maria de Pando, minister of state. The Colombian troops garrisoned the towns of Peru, many of whose troops had been transported to the isthmus, so as to leave the country in the hands of Bolivar's generals, Lara and Sands, and of the army under their command. The government was therefore a military despotism, in the pure sense of the term; and a military despotism of the worst kind, because administered by the subaltern officers of a successful general, responsible only to him for their acts, and sustained by an imposing standing army; the general, his officers, and his troops, being all foreigners, and

governing the country as conquerors. The business of the council of government was to procure the adoption of the Bolivian constitution in Peru, and the election of Bolivar himself as perpetual president or dictator for life. The means by which they accomplished their task appear in a memorable collection of documents printed in Lima, at "the press of liberty," in December 1826, in all the luxury of typography, entitled "Constitution for the Peruvian Republic." It is an everlasting monument of the laborious efforts of Bolivar to give to his usurpation the colour of legal title by free election, published under the hand of himself and his creatures, and therefore to be considered as an authoritative development of his views.

When the deputies of the congress of 1826 assembled, it is known to our readers, that a portion of its members subscribed a representation, declaring that body to be dissolved; or rather declaring it to be impossible it should ever be legally organized. The fifty-two delegates who subscribed the instrument, were induced, partly by threats, and partly by promises, to sign the evidence of their own incompetency; the whole procedure being a device to prevent the organization of a body, which, there was good reason to believe, would speak out boldly concerning the political condition of the country.

The object was effected by the pretext, that eighteen of the deputies had received from their constituents full authority to deliberate on public affairs, when the decree for convoking the congress referred only to specific subjects. For this reason, their election was declared to be void. There remained in Lima but fifty-two deputies, whose instructions were sufficiently limited to meet the views of the Liberator. Now seventy delegates being requisite to constitute a quorum of two thirds of the persons elected; it followed, that when eighteen or twenty were decreed to have been unlawfully elected, the rest would be insufficient to constitute a quorum for the transaction of business. The regular course in such a case, would have been, for these fifty-two to meet, organize the body provisionally, and take measures to compel the attendance of a part, or all of the thirty-five absent delegates; which they might easily have done. Instead of this, which would not have answered the purposes of Bolivar, they were induced to subscribe a declaration of political suicide.

This servile instrument is addressed to the council of government, and dated, Lima, April 21st, 1826. It begins by discoursing in good set phrases upon the topic, which then pervaded all the public acts of Bolivar, as it has of every other aspirant after supreme power

before him; namely, that the primary and surest safeguard of the rights of man, is general equality under the law, while a strong arm sustains its integrity, beneath whose potent sway, the institutions of the country flourish in tranquillity; while peace, prosperity and abundance flow from it, as from an ever-springing fountain of health. To attain these blessings, they hinted, it was necessary that social order, the child of obedience and repose, should be protected by one whose pre-eminent services rendered him worthy to be the depository of sovereignty, and who could exercise it only to diffuse universal happiness. Rigid adherence to the laws of the land; resistance to the turbulent spirit of innovation; absolute servility to a foreign military usurper, to translate their meaning into plain language, was the first, they almost affirmed, the only duty worthy of a good citizen and upright member of a civilized community. From this subject the transition was easy to the inconvenience of having a deliberative body assemble, whose members, or any portion of them, had been invested by their constituents with authority to inquire into the character and measures of the government, or to attempt to amend its organization. Its assembling, they said, could produce nothing but disorder, and thus run counter to the great duty of a citizen, as they had previously

stated it, that of implicit obedience to the existing laws, and scrupulous avoidance of all attempts to interfere with the march of a paternal government. These considerations satisfied them, that if a legal meeting of congress could be had, it would be inexpedient; and for the reasons before explained by us, the defective powers of some of the delegates, a legal meeting was declared to be impossible. If so, why then should the delegates continue in Lima, to lose their time, become involved in perplexing questions, and by embarrassing the operations of the administration, paralyze the noble plans and beneficent views of the supreme authority of Peru?

Having thus reached, by means satisfactory to themselves, the conclusion, that they should do much harm, and no good, by remaining at Lima, the government being in the hands of the man who seemed appointed by Providence to fulfil the happy destinies of Peru; the delegates conceived that they should best correspond to the hopes of the people, by continuing that extraordinary power which the constituent congress deposited in his beneficent hands; that power which he accepted with repugnance, which he had exercised with wonderful moderation, and which his own glory would cause him to resign with sublime disinterestedness. Certainly he would resign it; but this he could not do, until the time when, peace being deeply rooted in the land, and the foundations of the public good firmly established through the empire of the law, and the citizen who should succeed in directing the ship of state, indicated by the express and unanimous vote of the nation, he should have discharged the obligation which he voluntarily assumed on accepting his trust, by solemnly promising not to abandon the country, so long as his presence was demanded for its independence, its internal freedom, and the political organization of the republic. This period had not yet arrived. They were not ignorant how insupportable was the exercise of such extraordinary power to the extreme delicacy of the Liberator's feelings. But he should reflect, that honour was attainable not on the field of battle alone; for glory equally durable, arose from the sacrifice of repose, and of our dearest affections, when consecrated to the establishment of our country's prosperity. The republic demanded this sacrifice of Bolivar; and would not permit his abandonment of her, because the permanence of his present power was the first interest of Peru. And they obscurely intimate, in a clause which probably they did not fully comprehend themselves, but to which subsequent events imparted a terrible significance, that nothing less could secure the public peace, than the elevation of Bolivar, not as



constitutional president, but under some other mysterious qualification, to supreme authority in both Colombia and Peru.

Such is the tenor of this singular address. It concludes, as may readily be conceived, by suspending the convocation of the congress to the coming year; by recommending to the government to consult the provinces in the mean time, as to the form of constitution which they severally desire; and to procure from them a nomination of the citizen who shall exercise the supreme authority.

Following the address, there is a decree of the council of government, submitting it, on account of the grave nature of its contents, to Bolivar himself; who immediately returned it, with a communication as singular as the address, whose object, he said, he entirely approved. Nothing was more conformable to popular doctrines, than to consult the nation in the mass, upon those two capital points whereon states are founded, the fundamental laws, and the supreme magistracy. Select bodies were liable to errors, or corruption; but not so the people, who possessed in a pre-eminent degree, the knowledge of their own interests, and the measure of their independence. Their judgment was for this reason pure, and their will strong; and consequently, they could neither be corrupted nor intimidated.

For these considerations, Bolivar said, he highly approved the plan of the fifty-two delegates, of referring to the people themselves, the legitimate source of power, to decide upon the constitution of Peru; for he had irrefragable proof of their perspicacity in affairs of the greatest moment; and therefore always preferred their opinions to those of the wise. And to ascertain the wishes of the people, it was proper they should be consulted through their immediate representatives, the electoral colleges of the provinces. And however anxious he might be to return to Colombia, which demanded his presence, yet he was resolved to postpone all other considerations for the advantage of Peru.

This document disclosed the machinery, by which Bolivar calculated to accomplish his ambitious designs. A congress of delegates, composing the selected wisdom of the nation, he could not trust; because he knew they must and would see through the flimsy disguises which concealed his object. But the electoral colleges were small and scattered bodies, whom he might easily intimidate into adopting any code of laws which he should dictate; and who would not be very ready to oppose a fruitless resistance to the overwhelming power of Bolivar, with the Colombian army at his back. His flattering expressions of confi-

dence in the wisdom of the people were, in such circumstances, a solemn mockery ; for however sound might be their judgment when fairly exercised and upon due examination, what an insult to common sense it was, to land the correctness of their opinions, when they dared to express none but such as were set down for them to repeat, by the military chieftain who then ruled the nation ! For notwithstanding the parade of freedom with which, as we shall presently see, Bolivar was elected perpetual president of Peru, yet the brief duration of his power, and the alacrity of the Peruvians to deliver themselves from it, spoke volumes concerning the manner in which it actually was forced upon the country.

The council of government began by ordering a census of the whole nation, preparatory to convoking the electoral colleges ; but meeting with difficulties in this, they determined to proceed without a previous enumeration of the people, or any change in the basis of representation. Accordingly, circular letters, written in the name of Bolivar and the council, were issued from the office of the minister of the interior, Jose M. de Pando, dated July 1st, addressed to the several prefects of departments, commanding them to assemble the electoral colleges in the provinces under their command respectively.

and submit for their sanction the project of a constitution, a copy of which accompanied each circular letter. This constitution was neither more nor less than the Bolivian code, slightly altered, so as to adapt its provisions to Peru, but retaining all the odious features of that felicitous creation of the Liberator's wisdom ; its cumbrous and unwieldy legislature of three branches, tribunes, senators, and censors, the latter holding office for life ; with a president for life, without responsibility for the acts of his administration, having the treasury, the military force, and all appointments, in his disposal, and the right of nominating his successor.

The circular set forth the critical situation of the republic, which was destitute of any fundamental laws ; the imperfections of the constitution prepared by the constituent congress, at a time when the country was torn by rival factions, and the hosts of the enemy occupied its soil ; the succession of public misfortunes, which had ended only by creating "the tremendous power of the dictatorship ;" the glorious effects of the victories of Junin and Ayacucho gained under his auspices ; and the singular moderation and wisdom of him, who had employed absolute power solely for the public good, and who longed for the time to arrive when he might di-

vest himself of the painful burden of unlimited authority. It concluded with the following recommendation :

"The political code presented by the Liberator to the congress of Bolivia is the production of a transcendent genius, and is destined to form an epoch in the history of civilized societies. Hitherto it had appeared impossible to reconcile the greatest possible sum of the liberty and influence of the citizens, with the robust organization of an executive so conceived as to exercise his important functions without prejudicial trammels, or facility to make himself a usurper, and a legislative power so well constituted in all its parts that its movements should not present even the slightest possibility of oligarchical tyranny, of precipitancy in the enactment of laws, nor of paralyzing shocks and conflicts, which are the shoals on which popular assemblies have continually been wrecked. The council of government cannot hesitate, therefore, in offering for the national sanction this remarkable work of experienced wisdom, with such small modifications as may adapt it to the circumstances of our country ; nor can they abstain from raising their voice on this solemn occasion, to exhort the Peruvians, to accept this beneficent constitution, which promises them for the

future long days of repose and felicity."

This circular having been forwarded to the several prefects, was acted upon without delay, in every part of the republic ; and the next set of documents in the collection, is the acts of the electoral colleges of all the fifty-nine provinces into which the republic is divided : and all of them, with a degree of unanimity which would be wonderful, not to say impossible to attain, unless sinister means had been used to bring it about, accepted the plan of constitution, and nominated Bolivar for president under it. To enter into explanations of all these acts, would be tedious and unprofitable ; we take that of Lima the capital, as an example, by which all the rest of them may be correctly appreciated. It is stated that every engine of intimidation and corruption was put in requisition, to obtain this result. All means were employed to secure the appointment of electors, in the colleges, favourable to the views of Bolivar. In very many instances the names of the persons to be chosen were given to the people by the prefects. Blank forms of approval, it is also said, of the project of constitution, ready to be signed by the electors, were transmitted from the capital to the provinces. Of the immediate influence by which the signatures of appro-

val were procured, our readers may judge from the single fact, that in the very hall of sitting at Lima, an officer named Freyria, a satellite of Bolivar's, made use of threats to compel a majority of the electors to adopt the constitution, and nominate the Liberator as president. Indeed, the simple circumstance of the perfect unanimity of all the provinces in a whole nation, upon the subject of a complicated constitution of government, conclusively proves that the people either blindly gave up their judgments to the dictator, or else felt that they were not permitted to deliberate and judge for themselves.

The act of the province and city of Lima, is in these words :

" In the city of Lima, capital of the republic of Peru, August 16th, 1826. The parochial electors of the province being assembled in the hall of the university of San Marcos, for the purpose of discharging the sublime trust committed to them by their constituents, and of expressing the votes of the people on those points which most nearly touch their true liberty and future stability ; having been invited by the government to second the beneficent views of the delegates to congress, to remove the difficulties and embarrassments wherein they were involved in the outset, and which would have shipwrecked the vessel of state without recourse, if the disaster had not been prevented by well considered resort to the electoral power, the primary fountain of all powers :

" Reduced to the necessity of seeking advantage where it can be found, and of repelling evil to a distance, by whatsoever means ; and taught in the

school of adversity, in which our compatriots have taken bitter lessons, and withal, inefficacious ones :

" Shuddering at the horrid prospect of such evils, whereof already we have had sad experience ; and envious, so to speak, of the rapid flight of the republic of Bolivia almost at its birth, of the happy lot which awaits her, and of the majestic part which she is destined, ere long, to play among the most splendid nations, proud of her constitution, and of her name :

" Willing to hear the language of reason and feeling, recorded by the pen of the greatest sage among men, in this sublime code, presented by the Liberator to his favourite daughter, to make her as immortal and as glorious

as by the most signal manifestation of the will, to fix the lot of our country, so far as depends upon us, and to strip ambition and other ignoble passions of the specious drapery wherein they maliciously cover themselves, for the purpose of rending in pieces the bosom of the mother which gave them existence : responding to the application which the fifty-two delegates to congress have made to us through the government : taking into consideration with maturity and the most deliberate attention, the project of a constitution given by the Liberator for Bolivia, and adapted, with slight modifications, for the republic of Peru ; and, above all, being assured by the declaration of the public approval, expressed in the most energetic manner in favour of this project :—observing, moreover, that the plan of social organization traced in this magna charta, wherein powers are marked out in all their fulness, producing, as the last result, the most perfect equilibrium between the liberty of the people, and the serenity of the government ; and considering, finally, that, apart from the titles of gratitude, which should ever unite us with the illustrious father of our political existence, the idea of our permanent well being is inseparable from his prison, and that he alone, and no

other, ought to be that individual, venerable in years, pre-eminent in talents, and rich in experience, who should exercise, during life, the supreme magistracy of the state, and designate his successor, in the management of affairs:—

“We have concluded to declare, in the name of the province we represent, that all the doubts of the delegates to congress are resolved by the two following propositions:

“First, as the reform of the constitution given by the constituent congress of Peru, requires to be radical, and not merely partial; and as the project of constitution, given by the Liberator for Bolivia, and adapted for the republic of Peru, contains the elements of national prosperity, balanced in a wonderful manner, we give to this project the popular sanction, expressing the will of all the inhabitants of the province to be ruled thereby.

“Secondly, the Liberator-president of Colombia, being the individual on whom the eyes of our continent are fixed, and the only one capable of allaying the political tempest, and causing the nation to march with firm step to the destiny to which providence calls it, the Liberator, and he alone, ought to be the perpetual president of this republic, under the conditions which his project indicates.

“Such is the unanimous vote of the electors of the province of Lima, manifested by the most decided acclamation in favour of this sanction.

“With which the electoral college was dissolved, all the individuals present signing this act.”

If this instrument were the spontaneous act of the good people of Lima, we should entertain as poor an opinion of their taste, as of their fitness to enjoy the blessings of independence. It may serve as a specimen of the official acts of

fifty-eight of the electoral colleges: one only, that of the little province of Tarapaca, having spirit enough to say, “they had not yet light sufficient for the discharge of the function as august as delicate, of sanctioning the project of a constitution on which depended the felicity of the republic,” professing, at the same time, their admiration of “the genius” who presided over the nation, their disposition to yield implicit obedience to the government, and their zeal in the cause of liberty. The colleges rarely proposed, and still more rarely insisted upon, any amendment of the code. They seem to have felt that they had only to perform the work prescribed for them, without ever instituting the inquiry, by what right they, whose functions were merely elective, assumed to adopt a constitution for the people, and to elect the chief magistrate of the republic. Nor do they seem to have regarded the provision of the constitution, which required the president to be a native of Peru—*nativa del Peru*; Bolivar having originated in Venezuela, and being of course, disqualified for the office by his own code.

The original acts were duly returned to the council of government, during the three months which followed upon the despatch of the circular. Meanwhile, Bolivar, having waited long enough to

well sure of the success of his plan, had departed for Colombia, committing the conclusion of the business to his council of government, the obsequious instruments of his will. They issued a decree, dated November 28th, submitting the acts to the municipality of Lima, for this body to examine them, and report the result of the votes. The municipality, of course, verified the fact, and declared that the Bolivian constitution was accepted by the people as the fundamental law of the land, and that Bolivar was elected president of Peru for life, under that constitution. It may be thought somewhat singular, that the municipality of Lima should have been selected for this purpose. But the fact is, that the council, in order to carry on the farce of regularity in forms, needed some body of persons to "sort and count the votes," as we should say in the United States. They submitted the acts of the electoral colleges to the supreme court of justice, thinking it the fittest body that could be chosen for the purpose of verifying the votes; but the court, (Manuel Vildourre presiding,) after a warm discussion, decided that the colleges had no authority to approve or disapprove the constitution, they having been nominated only to elect deputies; and that to make the proceedings of any avail, a congress should be assembled to

decide upon such a matter as the fundamental laws of the state. But this the council of government knew would be fatal to their scheme.

Nothing remained now but for the council of government to pronounce Bolivar, who was but a few days before this entering Bogota with the name and example of Washington upon his lips, to be the perpetual president of Peru. Accordingly, on the 30th of November, they issued a decree, setting forth the various documents which we have described, and the result to which they unitedly led. Their preamble recited that the electoral colleges had all sanctioned the constitution submitted to them, premising only the condition that Bolivar alone should be the first president; that their votes were confirmed by the unanimous and spontaneous acclamations of the people, and by the free expositions of the various bodies in the state, civil, ecclesiastical, and military; and that never had the will of a nation been manifested with so much regularity, order, decorum, and liberty, as on the present occasion, in which citizens, scattered over a large territory, where there was no possibility of coercion or foreign influence, had united to pronounce a vote, which equally demonstrated the urgent necessity of reforming the institutions of the country.

and the admirable discretion and judgment of the people. For these reasons they decreed, that the project of a constitution, submitted for the popular sanction the first day of the last July, was now the fundamental law of the land, and the Liberator, Simon Bolivar, perpetual president of the republic, under the "beautiful title" of father and saviour of Peru. At the same time, they ordered that the constitution, after being solemnly promulgated, should be sworn to by all the public functionaries in the capital, on the 9th day of December ensuing, the anniversary of the victory of Ayacucho, which decided the independence of Peru. And, finally, on the 1st day of December, a pompous proclamation was issued by the same body, kindly informing the Peruvians of the universal jubilee wherewith they had hailed the new constitution, and their fervent enthusiasm in behalf of the saviour of Peru. We need not enter into the detail of the ceremonies of promulgating the constitution, and of the administering the oath of fidelity, which was taken by the public officers in Lima, at the appointed time, and soon afterwards by most of those in the rest of Peru. It was accompanied by the usual festivities and solemnities of processions, Te Deum, in the churches, and salutes of artillery, which filled the cities with the

empty sound of gratulation, when sorrow and indignation swelled the heart of every friend of Liberty. Suffice it to say, that if the elaborate superstructure of acts and decrees, which we have described, could have fixed Bolivar in the absolute control of power for life, his ambition was so far gratified.

Indeed, from the time when the promulgation of the constitution took place, the public mind was in a continual ferment. Tidings came to the Peruvians, from time to time, of the proceedings of Bolivar's emissaries at Guayaquil, Cuenca, Quito, and Panama; and from these, and also from the course of things in Venezuela, they saw plainly, that he was determined, if possible, to force upon Colombia a constitution like that of Peru, and under the modest title of president, rule the consolidated states of the south with the absolute sway of a despot. From the council of government, the mere mouth-piece of Bolivar, the servile instruments of his pleasure, all laws emanated, and by them were modified and repealed at will. The country possessed but the name of a republic, while in truth its government was a mere military despotism. The patriotic saw that they had been egregiously deceived; for the principles which they had so long contended and suffered to maintain, and for which many of them had sacrificed their

torities, were trodden under foot by a foreign usurper; their exertions, sacrifices, and sufferings, were of no avail; and the blood of their fellow citizens, so freely poured out in the war of independence, had been shed in vain. And yet their case appeared hopeless and desperate; with a host of foreign bayonets to sustain the cause of the usurper, the injured Peruvians could but treasure up their resentment, and await in patience for the day of retribution. It was evident to the most superficial observer, that they were only waiting for an occasion to break out into open resistance to the unwelcome government, so artfully forced upon them; yet few anticipated that the explosion was so nigh, and fewer still the quarter where it was to commence.

At the period under consideration, the third division of Colombian auxiliaries in Peru, consisted of the first and third divisions, chiefly stationed at Lima and Arequipa, amounting to 3805 men. Of these, about twenty-five hundred men, composing the battalions Vencedor, Rifles, Caracras, and Araure, and the fourth squadron of hussars, proud of the laurels acquired in the fields of Junin and Ayacucho. They were commanded by general Sands, and general Jacinto Lara, the latter having the chief authority, and both chosen friends of Bolivar. After the de-

parture of Bolivar, and particularly when the drift of his project was generally understood, the animosity of the Peruvians towards the Colombian army, which they looked upon as the means of their oppression, became bitter in proportion to the seeming extent of the wrong. But very speedily after the Peruvian constitution was promulgated, general Lara must have perceived, not only that the Peruvians were dissatisfied with the presence of the army, but that the latter was equally dissatisfied with Bolivar. Nothing else could have dictated a pressing letter, which he wrote upon this subject to the Colombian government, the 24th of December, and despatched by an aid sent for the sole purpose of carrying the letter to Bogota, and returning with an immediate answer. The despatch did not reach Bogota until February, subsequent to the time when the revolution happened; and, of course, too late for the government of Colombia to give orders that could be of any avail. It is in the following words, addressed to the head of the war department.

"The people of Peru have, until now, regarded the Colombian army as their deliverers: they have demonstrated this by public acts, and spontaneously decided, that we should form but one family. Grateful as these recollections are to me, and powerful as were the motives which united us, I cannot but perceive the revolution in their feelings towards us, which



actively tends to dissolve our friendly relations. The responsibility devolved upon me, prevents my leaving unnoticed the murmurs which reach my ears, and which do not escape the observation of others. It is alleged, that the Colombian army in Peru, without any existing war for its object, is either an oppressor, or else entertains certain private views, of which the government is accused. The allegations contain the elements of discontent and enmity; the result must be, and is rapidly hastening to be, what experience tells us is the consequence of strong prejudices in such circumstances. There is not a man under my command, but is anxious to be restored to the bosom of the republic, whose fame and honour are compromised among other free nations, if an embarrassed course be given to these opinions. I feel it to be my duty to provide in season some remedy for the general dissatisfaction which is observed. It is necessary, therefore, that the government should apprise the Liberator-president of my situation and that of my army, which the people of Peru already characterize as their enemy and oppressor; in order that, such final resolutions being adopted by him as may tend to conciliate all parties, there may be no cause of future exception to my conduct: because, after this step, I shall feel absolutely released from any subsequent responsibility."

The state of things indicated in this communication growing worse and worse every day, during the next week general Lara addressed an equally urgent note to the Peruvian council of government, pressing upon them the necessity for the immediate withdrawal of the army, which was deemed by the whole country an intolerable oppression, to be borne only so

long as they should continue to be compelled by dire necessity. But the council either could not or would not assume the responsibility of sending away the Colombian army, the immediate consequence of which they well knew must be the shipwreck of Bolivar's plans. In fact, Santa Cruz, the president of the council, late in December or early in January, began to have a good understanding with the liberals and patriots, who were preparing for the approaching revolution. And the means by which they calculated to effect their end was the very army itself, which originally had been the just object of their jealousy and hatred.

The brave soldiers who had conquered the Spaniards in so many battles, the generous victors of Pichincha, Junin, and Ayacucho, had not so often joined in the war-cry of liberty, without knowing the import of the word. The overpowering glory of Bolivar, the idolatrous respect which soldiers always feel for a favourite general who has led them on from triumph to triumph, and crowned them with the imperishable laurels of unconquered patriot warriors, hitherto had blinded them to his ambition, or perhaps tempted them to acquiesce in and facilitate his designs. Perhaps they did not care much if Bolivar did establish for himself a dynasty in Peru, a foreign country to them and their friends. But when

they became satisfied he was playing the same deep and dangerous game at home, in their own native Colombia, it was more than they could patiently endure, with all their enthusiastic devotion to the Liberator's name. Hence the Peruvian patriots found minds ready and willing to receive the desired impression; and they easily accomplished their object of inducing the army to declare itself neutral between the government and the country, and to take the requisite measures for tying the hands of those individuals, who were pledged to support the cause of Bolivar.

Santa Cruz, it is said, was desirous that the patriots, who were secretly conspiring for the deliverance of their country, should regard him as the chief and centre of the plan. So at least he gave them to understand. But at length they began to doubt his sincerity and distrust his ultimate intentions; for they discovered that he made use of various pretexts to defer declaring himself, and in short, was unwilling the blow should be struck before March. They suspected that his true reason for this was, that he might in the mean time see the result of Bolivar's operations in Colombia, to take his stand accordingly; if Bolivar failed, to come out a patriot; but if he succeeded in arranging things to his satisfaction in Colombia, then not only to abstain from opposing him,

but perhaps to make a merit of giving up those, into whose confidence and secrecy he was admitted. So early as the 10th of January, the troops gave him to understand they were disposed to make a movement, for the double purpose of leaving Peru at liberty in the first instance, and afterwards of protecting Colombia. To this he replied, that he was averse to any explosion on their part, because it would look like mutiny; that Peru would accomplish the thing herself, as more consonant to her own glory; and that it was impossible the Liberator should execute his plans in Colombia, from whence he expected in a few days an order for the troops: and that general Santander would disapprove any military movement, as having a tendency to demoralize the army and impair their discipline. Besides, Santa Cruz evinced unwillingness to act in concert with colonel Jimena, chief of the artillery, a warm friend of general La Mar, which indicated a jealous feeling towards the latter on the part of Santa Cruz. And when the plot had grown to such maturity that, like ripe fruit, it must very soon fall by its own weight, and Santa Cruz found it necessary to act, he was for taking time to make arrangements for securing the presidency himself, while most of the patriots were in favour of La Mar. It was quite natural, therefore,

that they should be distrustful of one, who was disposed to enter into their measures but half way, and was meanwhile contriving an underplot for his own individual interest.

Matters remained in this position until the 20th of January, when the courier arrived with letters from Bogota. They gave an account of Bolivar's entry into the city, and of the addresses made on the occasion. The Peruvians remarked that Bolivar, in his reply to Mr. Watts, the American chargé, spoke of the people of the United States and the excellence of their institutions, and of the noble character of Washington, as alone worthy of imitation, whilst in Lima for a year past, his talk had been altogether of Napoleon. By this mail, Bolivar wrote a letter to Santa Cruz, which contained only the most insignificant things, and did not even write to Pando at all, if the latter was to be believed. To Lara he wrote, that after settling affairs in Venezuela, he meant to betake himself to his *hacienda*, leaving the government to Santander, and that nobody should draw him from his retirement,—*de su retiro no le sacaria nadie, nadie, nadie*. At the same time they said orders had been given at Guayaquil to send him his equipage, which he had left there. After the arrival of this courier, Pando main-

tained that the Liberator would never return to Peru.

But general Lara let it be known among his particular friends, that he had received a letter from general Salom, stating that he (Salom) should set out in a few days for Peru, bearing confidential letters from Bolivar directed to Lara, and that the latter would receive important orders, which it was necessary he should obey without flinching,—*sin titubear*.—This last fact gave rise to an infinity of reflections and conjectures, and served undoubtedly to precipitate the meditated movement. What is the meaning, every body asked, of this mysterious and alarming announcement? For if the orders alluded to were for the return of the troops, there was no reason against speaking out frankly, on a measure which would have been equally agreeable to the troops and to the country. It was thought by many that these important orders would be nothing less than to march the troops to Callao, and seize upon the castles, the consequence of which would be to involve the country in a new series of difficulties, another long expensive siege, perhaps, with another Rodi to wear out the patience of the besiegers.

It must be understood, that for ten or fifteen days Santa Cruz and Larrea had been at Chorillos, where the minister Heres had re-

ided for some time. They pretended all to have fallen sick, so that Pando alone remained in the city, and carried on the government. On the morning of Friday, the 26th of January, the people were astonished, at the dawn of day, to behold the great square occupied by the Colombian troops, with sentinels posted at every corner, who permitted nobody to enter. Indeed, things went on with perfect order and tranquillity. One battalion, with its colonel, refused at first to unite with the rest of the troops; but the latter, acquainting them that an attack was about to be made on them to compel union, they arrested their colonel, and joined their companions in the square. An officer, with a file of soldiers, had already proceeded at daylight to the quarters of generals Lara and Sands, and colonels Luque, Portocarrero, and Paredes, and arrested each of them separately, without meeting the slightest resistance. Measures were so well taken, that by ten o'clock in the forenoon they had been sent to Callao with an escort. The night before, the officer who commanded the guard, according to the preconceived plan of operations, had entered the principal castle, mounted a few pieces of cannon, and closed the gate; and in the morning it was garrisoned with 300 men, under the command of Arrieta, who had charge of the officers

arrested, until they could be sent to Panama or Buenaventura.

Including generals and inferior officers, only twenty persons had refused to participate in the movement. It was headed by colonel Bustamante. The command had previously been offered to colonel Elizalde, who excused himself, on the ground that he was averse to giving displeasure to his uncle, general La Mar; the latter being anxious to prevent the affair from appearing like an intrigue of his; but Elizalde acted throughout in open concert with Bustamante, and afterwards wrote to the vice president of Colombia, assuming his share of the responsibility with the rest. But the first thing they did, was to send a deputation to the president of the council, beseeching him to repair immediately to Lima, and take the direction of the government in person. They assured him they were absolutely resolved not to interfere in the affairs of the government, having made the movement solely for the purpose of preserving fidelity to their own country and constitution, and to avoid serving as an instrument in oppressing Peru. When tidings of these events reached Santa Cruz by means of the deputation, he seemed at a loss what course to take, exhibiting very great irresolution in the whole affair. Pando presented himself at one of the avenues of the great square, in the

direction of the palace, at an early hour in the morning ; but, being driven back by the sentinel, mounted his horse and rode to Chorillos. He and the other ministers made two attempts to defeat the object of the troops. First, they sent an officer to come to Chorillos with the *Macedonia*, intending to embark for Huacho or Trujillo ; but Arrieta threatened to sink her if she started from Callao. Afterwards they endeavoured to get possession of Callao, through the agency of Tristan, the governor of the castles ; but Arrieta held fast to his party and friends. Failing in each of these attempts, the government had nothing to do but patiently to watch the progress of affairs.

Meanwhile, nothing could exceed the commotion of the city of Lima, in the early stages of the movement. Few of the citizens were aware of the object for which the officers were arrested, of the authors of the arrest, or of where it would end. All was mystery, and all dreaded the excesses of a soldiery apparently without chiefs. But, in the course of the day, Bustamante, in behalf of his associates, issued a proclamation, informing the people that their operations were dictated by regard for the interests of their own country, and that the citizens of Lima had nothing to apprehend. This was followed by another, in which Bustamante and his associates more

fully explained their designs. Being faithfully devoted to the constitution and laws of Colombia, they were determined to support them at all hazards. Terrified at the threatening aspect of affairs in that republic, occasioned by the treasonable proceedings of general Paez in Venezuela, and of the municipalities of Guayaquil, Cuenca, Quito, and Panama, who had passed resolutions in subversion of the constitution, and in favour of a dictator and an unknown code,—it was impossible for them to look on with indifference, while factional-innovators were striving to overturn the government which they had sworn to support. At the same time they distinctly promised not to interfere with any form of government which the Peruvians might see fit to adopt. The extreme joy, as well as surprise, of the people, may well be conceived, when they discovered that those very persons, whom they had so long regarded as their oppressors, had spontaneously assumed the responsibility of setting them free, to act according to their own wishes.

Accordingly, on Saturday, the 27th, the old municipality of the city, which had been scandalously and arbitrarily suppressed by the Bolivian code, assembled in open meeting, to discuss the measure proper to be adopted in this unexpected contingency. The meeting

would have passed off very quietly, but for the scene got up by the prefect Egusquiza, who appeared in the meeting, attended by an adjutant, Sr. F. J. Mariateguia, afterwards minister of foreign affairs, was the principal speaker in behalf of the people; and he supported, among other things, a resolution for abolishing the constitution lately forced upon the country. Thereupon, Egusquiza had the temerity and impudence to threaten them with serious consequences if they dared to touch the constitution, which he had sworn to sustain to the last drop of his blood. General La Mar tauntingly inquired of him, which constitution he was so zealous to defend; the last, or that which preceded it: for he had sworn to maintain each with the same solemnity. Irritated by this sarcasm, Egusquiza ordered his adjutant to go and lead up a platoon of soldiers, and arrest La Mar. The citizens cried out at once, that he must take care what he said; for that all present were free men, who would not tolerate the slightest violence. One person indignantly exclaimed, "why do we suffer one of those who have sold us, to come here, and add insult to injury?" The prefect, finding that blustering would effect nothing, wisely retired from the meeting, greatly humbled by the rebuff he had received, and fled to Chorillos.—

Nothing else occurred to disturb the harmony of the meeting, which adopted resolutions—1. Supplicating general Santa Cruz to repair immediately to Lima, and take the direction of affairs, as president *ad interim* of the republic. 2. Abolishing the Bolivian constitution. 3. Re-establishing that of Peru. 4. Requiring a congress to be assembled within three months, with full powers to make the necessary changes; and, 5. Requesting the president to dismiss the present ministers, and appoint others in their places.

On being notified of these proceedings by a deputation from the *cabildo*, Santa Cruz resolved to acquiesce, and reached the square at an early hour in the afternoon, when he was received by the *cabildo*, and the proceedings of the meeting were read in his presence. He was accompanied by Tristan and Pando; and when the article was read, requiring the removal of the present ministers, Pando smiled, took off his hat, and made a low bow to the meeting. Heres and Egusquiza took refuge on board the French ship of war *Cisne*. Santa Cruz was desirous to retain the old ministers: in consequence of which the *cabildo* met again, for the sole purpose of obliging him to dismiss them; and accordingly Manuel Vidaurré, late member of the congress of Panama, was appointed minister of state, Juan Salazar,

of war, and Larrea was continued in the treasury, until he could finish adjusting the accounts; after which, Sr. Galdeano was appointed his successor. On Sunday, the 28th, Santa Cruz issued a proclamation, as *president of the council* of government, declaring to the Peruvians, that "the government would deem itself unfaithful to its duty, if it disregarded the voice which reached it from every part of Peru, and which pronounced, that the Bolivian code was not received in free will, such as a political constitution required. The government disclaimed the least connivance in the coercion; and in order to testify its just respect for the wishes of the people, engaged to convoke a congress forthwith, to decide what should be the fundamental law of the republic.

On the same day, likewise, Pando sent in his resignation, in a communication which was published, and was much criticised for the lofty and self-satisfied tone in which it was conceived. It must be admitted, however, that of all the members of the government, Pando is the only one who manifested any resolution or spirit, throughout the whole affair. Santa Cruz, we have seen, was undecided, wavering, afraid to unite boldly with the patriotic party, yet anxious to maintain himself in their good graces, and to retain his power. Heres and Larrea, as

well as Santa Cruz, were taken sick very conveniently, at the time when they saw the storm was gathering, and carefully kept themselves at Chorillos, out of the way of the explosion. Pando, in the mean time manfully remained at Lima, in the very centre of the machinations, which he must have known were going on, but could not defeat. When the soldiers posted their sentinels round the square, on the morning of the 26th, he attempted to pass them; and on being stopped, demanded how they durst arrest the progress of a minister? and yielded only to actual force. When Santa Cruz left Chorillos, Heres fled on board the *Cisne*; but Pando hesitated not to accompany the president to Lima, and appeared unconcerned in the very midst of his enemies. Report even says, that he composed the proclamation issued by Santa Cruz, on the 28th. Considering all these circumstances, we cannot but entertain a higher opinion of his character, than of that of his associates; and therefore can pardon his boldness in undertaking, when he resigned, to defend his conduct.

Thus in the short space of forty-eight hours, was effected this strange revolution, which did not cost a single drop of blood, nor even interrupt the ordinary occupations of the citizens, except during the uncertainty of the early part of Friday. The populace were con-

## PERU.

fated and happy with the change ; but according to the characteristic calmness and almost apathy of the *Limenos*, their demonstrations of joy were not so boisterous or noisy as they would have been in most countries, upon such an occasion. It was generally believed in Lima, that La Mar would be chosen president ; but the delicacy of this distinguished officer was so great, he would not suffer the least intrigue in his favour ; determined, it would seem, to be elected by the free suffrages of the nation, if at all. Santa Cruz had lost ground so much of late, that there was little chance of his continuing at the head of the government. The new state of things was very acceptable in the provinces, which all imitated the example of the capital, and hastened to elect deputies for the approaching congress. Truxillo, Ica, Guamanga, and Arequipa were distinguished for their enthusiasm on the occasion. In Arequipa they elected, almost by acclamation, their deputies in the former congress, who had not truckled to Bolivar. In Guamanga, the prefect, and two other officers, who showed a disposition to resist the people, were made prisoners, and sent to Lima in that condition. Every thing, therefore, both in and out of the city, went on as well as the most ardent republicans could wish.

But a serious cause of anxiety still remained. The Colombian

troops had covered themselves with glory, by the wonderful prudence and moderation of all their proceedings connected with the revolution. But they remained cantoned in the suburbs of Lima ; and what certainty was there of the continuance of their extraordinary self-command ? The bonds of military discipline being once broken, it was impossible to feel confidence in the permanent good order of a large body of troops, without the control of any superior officers. In fact, the demoralization of the division was immediately attempted by evil disposed persons, and a terrible reaction might take place unexpectedly, at any moment. Incessant efforts to bring about this end were made by the servile party, who were active in proportion to the smallness of their numbers ; and having once succeeded by coercion and corruption, in procuring the ratification of the Bolivian code, and the election of Bolivar as perpetual president, might justly feel confidence in their own adroitness. The *Limenos*, therefore, hardly felt easy until the 4th of February ; when two thousand Peruvians marched into the city, from the nearest highlands, commanded by experienced officers, full of patriotism and honour. The appearance of these troops seemed to bring with it security and peace. They entered the city, as it were in triumph, in the midst of the common enthusi-



asm; giving two fold strength to the general confidence. But the machinations of the Bolivian party did not cease; and a bloody issue began to be anticipated by those, who, perceiving the jealousy and rivalry that existed between the two armies, knew how easily these passions might be inflamed into open hostility. Besides, the monthly charge of thirty thousand dollars, for the pay and rations of the Colombian army, pressed heavily upon the exhausted treasury of Peru. All these considerations made the government extremely anxious to be rid of a body of foreign troops, which, however meritorious their ancient services and their late acts had been, was yet in every point of view, a source of uneasiness, and of suffering to the country.

Nor was the third division less anxious to depart, than the Peruvians were to be relieved of their presence. Bustamante's intention had been to wait for orders from the vice president of Colombia. But he speedily became aware of the circumstances, which we have described. He saw that it was no easy task for him, who had headed a kind of mutiny against his general officers, and who held his own authority by the frail tenure of the good will and voluntary obedience of his fellow soldiers, to maintain due subordination in his ranks, or to enforce respectful obedience from his sub-

altern officers. Policy dictated the same advice which patriotism impressed on him; namely, to take advantage of the enthusiasm of the moment in favour of liberty, as the only means of holding his followers together, and preventing some calamitous event. In accordance therewith, was the idea of the most judicious among his associates. Following up the patriotic sentiments which actuated the division in the affair of the 26th of January, they resolved to consummate the work of revolution which they had begun, by quitting Peru, and landing at Guayaquil, to exert their influence, and, if necessary, their strength, in behalf of their constitution and government. Every day brought to Lima new accounts of the lamentable condition of Colombia; threatened with civil war in the northern departments, distracted by the municipal acts of the southern ones, and seemingly almost prostrate at the feet of Bolivar. Besides, they now breathed an atmosphere where the name of the Liberator was odious; and the representations of his conduct which reached them through the Peruvians, were by no means softened by the medium of transmission. They resolved, in short, to put an end to all the coercion, which they believed was employed against the constitutional cause, by employing force to counteract force.

## PERU.

On the 4th of March, therefore, Bustamante communicated his wishes to the Peruvian government, who, overjoyed at the turn which affairs were taking, cheerfully acceded to his conditions. These were, that the government should provide transports for the division, and provisions for thirty days, with a suitable convoy for their protection; and that their arrears should be paid or satisfactorily secured to them before they embarked. They left Lima on the 13th of March, and embarked at Callao the 17 under convoy of the sloop of war Congreso. Of their subsequent proceedings an account is given in the proper place, in the history of Colombia. The auxiliary troops stationed in the southern extremity of Peru were soon afterwards paid off, and embarked at Arica; and thus Peru was relieved of her dangerous allies.

What impression all these events and proceedings might make upon the Colombian government the Peruvians, of course, could only conjecture. Speculation was busy on the subject; and although most men supposed Bolivar had occupation enough in Colombia to prevent his immediately attempting to regain his lost authority in Peru, and that Santander and the constitutionalists would naturally rejoice and sympathize with their brethren in the same cause: yet the wise

deemed it judicious to prepare for the worst. Therefore both before and after the departure of the Colombian troops, the Peruvians put their own army upon the best footing in their power, and made new levies with all possible expedition. The Peruvian congress met in Lima early in May, and was called to order by D. Manuel Vidaurre, who addressed the members in an appropriate speech, and moved for the appointment of a president. The choice falling on D. Xavier de Luna Pizarro; Santa Cruz communicated a message briefly explaining the present state of affairs; but containing nothing of particular importance or interest; and resigning the provisional authority, which he held pursuant to the vote of the citizens of Lima, to act thenceforth under the direction of the legislative body.

Of the proceedings of congress the most important was the organization of the government, by the election of a chief magistrate of sufficient weight of character to give respectability, dignity, and firmness to the administration of the republic. The persons spoken of for the office of president, were Santa Cruz himself, the president *pro tempore*, Luna Pizarro, and general La Mar. Of these, the first named might have been elected, perhaps, had he promptly and decidedly taken part with the patriots; but his irresolute conduct

at that critical moment, added to some old grudges, seemed to remove all chance of his success. Luna Pizarro was an ecclesiastic, who had been proscribed by Bolivar for opposing his designs, and banished from Peru. During the ascendancy of the dictator's power, he had taken refuge in Chili, which the extreme jealousy of Bolivar, there entertained, rendered a safe asylum from his resentment. Having been distinguished for his eloquence and activity in the deliberative assemblies of his country, he was elected a member of the new congress, and returned to Peru in the Chilian armed brig *Aquiles* in April. But the choice fell upon general La Mar, a man who, to great military talents, adds general information, prudence, moderation and firmness, and whom all parties unite in commending, as every way fitted, in the actual posture of affairs, for the office to which he has been raised.

General Jose de La Mar was born at Cuenca, which at that time belonged to Lower Peru, but, forming a part of the territory afterwards erected into the presidency of Quito, it now appertains to the Colombian republic. La Mar, therefore, although a citizen of Colombia, is looked upon as a Peruvian by birth, and participates in all the privileges of a citizen of Peru. Even under the Spanish government he was always respectable: he never in-

jured any of the patriots; and never took part against the cause of America. After once embracing the patriotic side, he served disinterestedly, without seeking any personal ends, and aspiring only after the public good. Besides many other occasions in which he acquired experience and fame, he bore a distinguished part in the decisive battle of Ayacucho. Invited by Bolivar to accept the office of president of the council, he declined, foreseeing the tendency of measures, and disdaining to be made the instrument of oppression. Afterwards he lived in voluntary exile from Peru, to avoid having any part in the proscription of the patriots, and to avoid yielding obedience to the Bolivian code, or prematurely exciting the jealousy and ill will of Bolivar by his opposition. So rightly were his qualities appreciated, that a distinguished Colombian remarked, several years before, that he was one of the most honourable men in South America, and the best qualified to govern Peru.

Such is the individual who has been elected to take the direction of affairs in Peru, in the place of Bolivar's council of government, the mere pro-consuls of a distant emperor. General Manuel Salazar y Baquipano was elected vice president. They are men whom Bolivar can neither corrupt nor intimidate: and if he should unhap-

ply succeed in overthrowing the constitution of Colombia, and should turn his arms against Peru, he would have to cope with men who are not greatly inferior to himself in talents. La Mar, the president elect, being absent in the south of Colombia, the functions of the executive authority devolved upon the vice president, who organized the government, by appointing, first, D. Manuel del Rio : and afterwards, D. Francisco Xavier Mariateguia, to the department of foreign relations ; D. José Morales y Ugaldé, to that of the treasury ; and D. Juan Salazar, to that of war and marine.

Among the acts of congress and of the government, the most interesting relate to the Bolivian constitution, and to the relations of Peru with Colombia. The vice president Salazar communicated intelligence of the election of La Mar and of himself, to general Santander, by note, dated June 23d, immediately after his installation. At the same time, the minister of foreign relations, despatched to the Colombian secretary of state, official copies of the decrees of congress which affected Bolívar and Colombia. By the first of these decrees, passed June 11th, the constituent congress declared that the constitution sworn to on the 9th of December, had been ratified in a manner illegal, and subversive of the national sovereignty : and

was therefore null, and of no effect ; the constitution of 1823 being revived as the provisional fundamental law of Peru. In the second, passed June 23d, Bolívar was disposed of in the following manner :

*The General Constituent Congress of Peru—CONSIDERING,*

“ That the council of government has, through the medium of a Peruvian colonel, notified general Bolívar, president of Colombia, of the nomination made by the electoral colleges, of him as perpetual president of the republic :”

“ That congress has, by the decree of June 11th, declared null and of no effect, the constitution sworn to December 9th, of the year preceding, and said nomination of perpetual president thereby becoming invalid,

*DOETH DECREE THE FOLLOWING :*

“ That the executive power shall officially communicate to the Liberator, Simon Bolívar, president of Colombia, the installation of the general constituent congress, and the decree passed upon the constitution, called the Bolivian ; and also the election of a president and vice president, citizens belonging to the republic :

“ And that in the name of the general congress, the executive shall signify to him the gratitude of the nation, for the services he has rendered in the cause of independence. Dated at Lima, June 23d, 1827.”

In this laconic and cavalier style, did the new congress dispose of the Bolivian code, and the presidency of Bolívar for life. And although the government expressed, and probably felt, a sincere de-

sire to preserve peace with Colombia, yet, on the 26th of June, the consul general, and chargé des affaires of Colombia, Sr. Cristoval Armero, was ordered to quit the territory of the republic within the space of eighteen hours: and after various communications with the ministry, was under the necessity of departing for Guayaquil. A demi-official article in the *Peruano* newspaper, assigns as the reasons of this harsh measure, the unremitted interference of Armero in the domestic affairs of Peru; alleging numerous acts of this kind, performed under protection of his privileges as foreign minister, but in violation of the rules recognised by the law of nations. Nothing official has yet transpired on the subject, within our knowledge; and therefore the grounds of the expulsion cannot be stated from authority.

La Mar was received and installed in office in August. He landed on the 19th, about forty miles to the north of Lima, and took a private route, in order to avoid the triumphal arches, and other popular honours, which had been prepared in congratulation of his arrival. A just and well founded enthusiasm was universally manifested on the occasion of his installation; for the Peruvians then began to enjoy, for the first time, since the opening of the revolution, a regularly organized government of their own free choice, entirely

delivered from foreign influence. The compactness of the territory of Peru, its ample resources, both public and private, and the situation of its government, all combine to render its prospects far better than those of the other South American States.

Its only dangerous neighbour is Colombia. The boundary between the two countries is not well settled, inasmuch as the provinces of Jaen de Bracamoros and Mainas, although claimed as part of Colombia, are, *de facto*, governed by Peru. But this matter is not likely to disturb the good understanding between the two nations; and Bolivar's ambition is the only source from which any interruption of their mutual harmony is to be dreaded. The feelings of the Colombian government on the subject of Peru, aside from Bolivar himself, may be inferred from a single circumstance. When Heres reached Colombia, he hastened to Bolivar's quarters in Cartajena, from whence he addressed a communication to the vice president Santander, explaining the reasons for his leaving Lima, and complaining of the conduct of the third division, whose officers he wished to have brought to trial. Soublette replied, "that the government had nothing to do with the case of general Heres, who had never served the republic of Colombia under the orders of the executive authority." So little

sympathy was entertained at Bogota the indignation of the whole civilized world upon him by an act so outrageous as the invasion of that Bolivar is too wise to bring Peru.\*

\* The materials of this chapter are found in the files of *La Estrella de Chile*, of *El Republicano*, of *El Cometa*, and *La Cola del Cometa*, of *El Conductor*, and of *Gaceta de Colombia*, newspapers of Colombia, Peru, and Chile ; in *El Amigo del Pueblo sobre lo Acaecido en Lima*, &c., the *Cronica de Lima*, *Discurso del Deputado Vidaurre sobre Imprentas*, and other publications printed at Lima.



## CHAPTER XL.

*Scanty accounts of Upper Peru—Sucre reappointed by congress—Colombian troops—Sucre's address on his election—Bolivian code sworn to—Movement of Fuente on Puno—Sucre stands neutral as to Peru—His address to the Colombian army—Conspiracy in Bolivia—Acquisition of Arica—Bolivia not recognised by Buenos Ayres—Sucre intends to resign.*

THE remoteness of BOLIVIA co-operates with its retired position, in the centre, as it were, of South America, to render the accounts of its condition, which reach the United States, extremely scanty and imperfect. As it possesses no seaports, the penetrating spirit of our commerce has not yet lifted the veil from the rich cities of La Paz, La Plata, and Potosi. Our information of this region, therefore, comes to us through channels which cannot be trusted implicitly in all cases; because their separate interests are apt to give an improper colouring to facts. Buenos Ayres on the one side, and Peru on the other, would each gladly swallow up, or at least form a union with the new republic of Bolivia. And the celebrated Bolivian code, drawn up by Bolivar for the nation which his arms created, while it has serv-

ed to draw the attention of the rest of South America to this quarter, has made Bolivia an object of some jealousy among the patriots of Colombia and Chili. Yet the country is interesting and important, as well for the extraordinary richness of its mines, as because it has been the theatre of the famous insurrection of Tupac Amaru, who attempted to restore the empire of the Incas, and of some of the fiercest battles and most remarkable scenes of the revolution. The few authentic facts in its history, which come within the scope of this chapter, may be briefly despatched.

We concluded our notice of Bolivia the last year, with a short account of the constitution prepared for this republic by Bolivar. The address to the constituent congress, which accompanies that code, we perceive is dated, May 25th, 1826:



and appears to have been written by Bolivar at Lima, where he then resided. On the same day the constituent congress had assembled at Chuquisaca, the capital of Upper Peru; and general Sucre, who bears the title of grand marshal of Ayacucho, resigned the discretionary command, which had been committed to him, into the hands of congress; requesting that body to place a native of the country at the head of the government. He alleged, that he himself was a Colombian, and therefore, in strictness, a foreigner, however closely united to them by the ties of association in victory, and of common suffering in the cause of independence. He urged upon them the danger of committing the liberties of the nation into the charge of a victorious general, whose very successes in war might render him unsafe as chief magistrate of the republic. But either dazzled by the splendour of his name, or overawed by their fears of him who possessed all the military forces of the country, they insisted upon his retaining his power; lest by his withdrawing from the administration of the government, affairs should relapse into confusion and anarchy. At length, he consented to exercise the executive authority, until a constitutional president should be elected. But repelling with all the generous pride of a soldier, he said, the idea that the lustre of triumph should

have any influence over the august act of giving a chief to Bolivia, he solicited and obtained a decree, submitting the appointment of president to the free choice of the people.

This was precisely the course adopted by Bolivar, it will be remembered, in order to obtain the perpetual dictatorship of Peru. Whether Sucre, whilst imitating the conduct of his general, was actuated by the same motives which influenced the latter, we have not sufficient means to judge. There remained in Upper Peru, at this time, a body of three thousand and three hundred Colombian troops, a division of the auxiliary liberating army. On Sucre's becoming charged with the executive authority of Bolivia, the troops stationed within the limits of this republic, were placed under the command of Jose Maria Cordova. The exact resemblance of these circumstances to what we have seen of the contemporary condition of Peru, produced the like result in both cases. Antonio Jose Sucre was presented as candidate for the office of president for life, by the nearly unanimous votes of the electoral assemblies; and the constituent congress accordingly pronounced him to be in fact president of the republic. It may be, that this was a perfectly free vote; and if the presidency had been for a term of years, instead of being for life, we should

entertain no doubt on the subject. However this may be, Sucre continued to make the strongest professions of his disinterestedness, and love of liberty; in evidence of which, on the 28th of October, 1826, he addressed the following communication to the constituent congress.

“To the sovereign constituent congress of Bolivia.

“The people of Bolivia sighed to attain that freedom, which they were the first in South America to proclaim; and independence to constitute themselves a nation, was the great object of their ambition. Fortune decreed, that the liberating army, at whose head I was, should be the instrument for breaking their chains on the field of Ayacucho; and rare circumstances, which inspired me with a pre-sentiment of the interest I was to feel in this country, conduced to draw from me the decree of February 9th, which placed the Bolivians in the enjoyment of their rights, and gave them free control over their own destinies.

“The people of Bolivia, overcome by gratitude, have lavished upon me considerations and respects, which might compromise their own condition, and even their liberty itself. At one period they surrendered their direction to me, in the shape of discretionary command; at another, their representatives forced me to accept the govern-

ment, when it was already time they should withdraw themselves from the authority of a general, who was upheld by victory, and was a foreigner likewise. My conscience prompted me to resist these declarations drawn forth by gratitude from a nation, which postponed all its interests to the great cause of independence, its only dearest object: Feeling myself touched in the tenderest point, the noble pride of a soldier, and unwilling that the splendour of triumphs should have influence in the august act of giving a chief to Bolivia, I ventured to solicit the national representation to pass the law of July 3d: which finally left it to the discretion of the people to nominate the president of the republic.

“The people, judging indulgently of my administration, or penetrated, it may be, with transports of enthusiasm towards him who led the conquerors of Ayacucho, have desired to place me among the candidates for the constitutional presidency. But I should be false to my duties, and to my love for the land which is distinguished by the name of the most illustrious mortal, if I did not hasten humbly to implore the fathers of the country, to strike me out from among those who are called to the perilous charge of directing the nation. Permit me also here, that, in the exercise of my rights as a ci-

tizen of Bolivia, I may appeal in behalf of the dignity of the republic, representing to the sovereign congress that it should consider insufficient the votes with which I have been honoured. The influence of prejudices and of power was in my favour; and the national act of Bolivia electing the constitutional president, ought to be freed of all considerations, but the prosperity of the state, the public liberties, and the independence of Bolivia: Interests, too sacred to be trusted to any but a man who first saw the light in the country nearest the heart of Bolivar.

"The patriotism of those who were selected from a people elevated above the level of weak minds, will reflect that the act of this day is the triumph of the cause and spirit of the nation: and that in it, their names may either be degraded, or invested with the glory merited by the first of legislators. It will be my happiness, if, in showing them that in giving this day, a constitutional chief to the republic, their responsibility remains for ages, I shall contribute to the great end of placing the condition and the destinies of this country in the hands of the most worthy Bolivian.

ANTONIO JOSE DE SUCRE."

Of the subsequent proceedings of the constituent congress, after declaring Sucre to be duly elected, we know little: but we find it sta-

ted in a Chilian journal, that this body took measures for the ratification of the Bolivian code, which was sworn to on the 9th of December; and at the same time dissolved, to give place to the assembling of the regular legislature prescribed by the constitution. It was on the same day, the anniversary of the victory of Ayacucho, that Bolivar's Peruvian constitution was sworn to in Lima; and of course the Bolivians could have no anticipation of the coming revolution in the neighbouring republic. But when that event had happened, much anxiety was entertained in Peru, as to the course which Sucre and the forces under general Cordova would pursue. Some anticipated that the auxiliary army in Bolivia would imitate their brethren of the third division, and overturn the new constitution. Others apprehended that Cordova would march his troops into Peru, and strive to counteract the measures of the revolutionary party. The movement in Peru, it will be recollected, was confined to the corps stationed at Lima; those at Arequipa, the southern extremity of the country, having taken no part in the insurrection. So soon as the prefect of Arequipa, Gutierrez de la Fuente, received intelligence of what had transpired in the capital, he marched the Colombian battalion Pichincha towards La Paz, to secure the means of forming a pur-

tion with general Cordova's division. At the same time he sent colonel Altaus, of the engineers, with despatches to Sucre, apprizing him of what had taken place, and declaring his readiness to stand by Bolivar and his council of government, provided he might have the countenance and aid of Sucre.

In this expectation, it seems, he was disappointed. Sucre marched towards the confines of Peru ; but without any hostile purpose.

The Condor, the government paper of Bolivia, took pains to refute the suspicions which this movement awakened in Peru. That journal declared, that it was no part of the policy of president Sucre, to intermeddle with the domestic affairs of a foreign country, which was united to the Bolivian republic by relations of amity ; that the march of the president had for its only object to secure the tranquillity and prosperity of the state, which had committed itself to his care ; that the Bolivian government could not declare war without the consent of the legislative body ; and that the constitution forbade the president to quit the territory of the republic without the consent of congress. Sucre himself, in his direct communications with the Peruvian government, manifested a disposition entirely pacific. He solicited transports for the conveyance to Colombia of the battalion Pichin-

cha, and a squadron of hussars, which had marched to Puno, and entered the territory of Bolivia ; and, as we have seen, these troops were accordingly embarked upon the earliest occasion which offered itself. He assured the government of Peru of his determination to be strictly neutral in respect to the events following upon the 26th of January ; and he interposed in them so far only as to express his desire that the third division might leave Peru without delay, lest their insubordination should increase, and lead to bad consequences ; and perhaps prevent the constituent congress from deliberating in full freedom.

But neither as a Colombian general, nor as president of the republic of Bolivia, could he remain indifferent to the spirit manifested by the third division, which he might justly fear would prove contagious, and produce pernicious effects among his own troops. Sucre's sentiments on the subject are expressed in a military address to the troops, pronounced at La Paz the 8th of March :

*Soldiers :—*The Colombian division, stationed at Lima, has been seduced into insurrection against their generals, by some of their subordinate officers. They have protested that they were devoted to the Liberator, until he sought to destroy the laws of our

country, trample the constitution under foot, and proclaim himself dictator.

“ You well know the sublime disinterestedness which distinguishes the father of Colombia, general Bolivar, without whose existence neither should we have a country, nor would your name have shone in a hundred victories. Such is the man whom a band of infamous detractors accuse of ambition, at the very moment whilst in his passage through the southern departments of Peru, he was re-establishing constitutional order, despising the dictatorship which there was offered to him ; and, at the moment that, without remaining in Bogota more than eleven days, he had proceeded towards Venezuela, to render the power of the laws again triumphant. Now, the constitution of Colombia is again the bond which unites all her sons : and yet at this very time, some unnatural Colombians are opening the wounds of their country afresh.

“ A portion of the officers of the battalions Araure and Rifles, are the traitors, who, offering to the troops to recover for them their arrears and gratifications, induced their corps to mutiny, and with them have just wrought upon the battalion Vencedor, and afterwards attacked the battalion Caraccas, so as to involve the whole in the insurrection. In the sequel, nothing has turned out as they expected : and after

compromising us, the constant defenders of liberty, they have alarmed Lima, calumniously charging the generals of Colombia with seeking to usurp the command of the people. You know the Liberator, who is the shield of American liberty ; general Lara, whose only desire is to be the soldiers' father ; general Cordoba, all whose ambition aims but to conduct you in battle : you know the generals Salou, Sands, and Figueredo, and all the rest who accompanied you to liberate Peru,—that they have been our constant friends in prosperity, and in adversity ; that they have partaken with you of glory and of privations. You are witnesses that the people of Bolivia have proffered me the perpetual presidency of this republic, and that I have refused it, preferring, to all commands and all titles, that of citizen of Colombia. You know that if I temporarily exercise the supreme authority, it is to serve the people, and in order not to absent myself without restoring you to your country. And who accuses us ! A set of cowardly intriguers, never seen perhaps by one of you in the field of battle.

“ These perjured men have publicly insulted you in Lima, imagining that this division would also revolt from its chiefs. To expose this black imposture, I have come to place myself in the midst of your bayonets. Sure I am that

you are still the same brave soldiers of Vargas, Boyaca, Carabobo, Puerto Cabello, Cartajena, Pichincha, Junin, Ayacucho,—who will never forfeit the glory of a hundred combats."

Here he paused, and taking in his hand the standard of the battalion Ayacucho, he concluded:

"*Soldiers* :—I hold here our rallying point, under all circumstances: this banner, which distinguishes our country among the nations, and under which you marched from victory to victory, from the banks of the Orinoco to Potosi; this banner, for which you have shed your blood to immortalize the Colombian name, and around which, three nations, striking off the oppression of Spanish power, have flocked at the war cry of liberty. Beneath the shadow of its laurels, let us renew our oaths to be forever Colombians, faithful to our country's laws."

Contradictory accounts have been given of the internal condition of Bolivia at this period. The Cuban newspapers represent the people as being dissatisfied with the new constitution, and as waiting only for an auspicious occasion to throw it off, and establish a more liberal system. They also represent the army as being disaffected towards its generals; but if it was so, it is probable the frank and confiding conduct of Sucre removed all pretext for any usur-

rectionary movements. Had it been otherwise, general Cordoba would not have felt justified in leaving Bolivia at this time, as he did, in order to attend to some personal affairs in the south of Colombia. But the country, it is certain, was not entirely free from causes of uneasiness. The separation of the province of Salta from the republic of the Rio de la Plata, and the expulsion of general Arceles from his command there, tended to affect the tranquillity of the contiguous districts of Bolivia. The Condor of March 15th, notices the detection of a conspiracy in Chuquisaca and Potosi, on account of which twenty-two individuals had been arrested in the latter city, and eight in the former: and inquiries were actively making to obtain a complete development of the object and extent of the conspiracy, both of which remained uncertain. About this time, also, it is said that some churches were stripped of their silver in order to send it to Colombia: and dollars were coined, bearing on the front a head of Bolivar crowned with a laurel wreath, and the inscription, LIBER POR LA CONSTITUCION: upon the reverse, a singular device, described in our chapter on Colombia, and around the edge, SUCRE, AYACUCHO MDCCCXXIV. If these accounts are true, probably it must have required all the disinterestedness and popularity of Sucre to preserve

Bolivia from the agitations which pervaded Colombia and Peru.

Just before the Peruvian revolution, Sucre concluded a treaty with Ortiz Ceballos, the plenipotentiary of Peru in Bolivia; by which, the latter country, on condition of assuming five millions of the Peruvian debt, acquired an important accession of territory in the maritime provinces of Tarapacá, and Arica, belonging to the Peruvian department of Arequipa, and forming the nearest communication from Potosi to the ocean. It is unlikely that this treaty was ratified immediately: for soon afterwards the new government of Peru sent letters of recall to her ministers in Bolivia and Chili, probably distrusting men who had been appointed by Bolivar, and were, perhaps, subservient to his views. This furnishes no ground to apprehend a rupture between Bolivia and Peru: the latter having formally acknowledged the independence of the former; and being in no condition to prosecute a war with the experienced and skillful Sucre, if her rulers were so foolish as to be disposed to do it. Still Lower Peru must very naturally feel a desire to be re-united to Upper Peru, from which, in the capricious despotism of Spain, it was so arbitrarily severed, contrary to all the obvious principles of association, and subjected to the Viceroy of Buenos Ayres. It would

be no wise surprising, therefore, if in the various changes which these countries may be destined to undergo, the two Perus should, at no remote period, be confederated under a single government.

But the continued refusal of the congress of the Rio de la Plata to recognise the independence of Upper Peru, is eminently absurd, and injudicious. The provinces of the Rio de la Plata, when their union was apparently the closest, were held together by a rope of sand. After fifteen years of independence, they had proved unable to agree upon a constitution of government. And they seem to have proceeded upon a false principle, in seeking to force particular provinces to continue associated with Buenos Ayres, contrary to their respective interests and inclinations. Their denial to Bolivia of the right of constituting its own government, is nothing but an act upon paper: because, even if the war of the Banda Oriental were at an end, it would be impossible for the provinces of the La Plata to compel Upper Peru to join their confederacy. They complain, to be sure, of the annexation to Bolivia of Tarija, a portion of the province of Salta; but we have not facts sufficient to judge which party, if either, is blameable in the transaction.

Our latest intelligence from general Sucre left him at Oruro, on the 21th of April, on his march

from La Paz, to Chuquisaca and Potosi ; carried thither, no doubt, by the political conspiracy above mentioned. It is stated in the Gazette of Colombia, as an article of news officially communicated, that Sucre persisted in the intention, which, as we have seen he had repeatedly expressed, of leaving Bolivia to be governed by her own citizens. His resolution was taken to convoke an extraordinary congress during the then current year, for the purpose of resigning his authority into their hands, and restoring himself to Colombia. With this object in view, he had solicited of the Colombian government temporary leave of absence from his military duties for the space of three years, with permission to reside in the departments of the south.\*

\* Our account of Bolivia is derived from the documents cited in the chapters of Colombia, Peru, and Chili.





## CHAPTER XII.

*Chile.—Blanco's resignation—Chilian finances—Resignation of president Freire—Of vice-president Pinto—The latter not accepted—Pinto's installation—War in the southern provinces—Constitution of Chile—Proceedings of the provincial assemblies—Arguments of the federal party—Arguments of the centralists—State of parties—The present government.*

At the last advices CHILE continued in an unsettled condition. Our account of this country for 1826 closed with the choice of D. Manuel Blanco Encalada as provisional, and the vote of congress resolving to organize the republic according to the federal system. But ere two months had expired, the chief magistrate retired from his office in disgust, assigning the distracted state of affairs, and the inveteracy of the factions which agitated the country, as the cause of his resignation. In the course of his address he said :

“ I had hoped that congress, sensibly alive to the critical position of affairs, and the exhausted state of the treasury, would lend their active co-operation, and unite in perfect harmony with the executive, for the purpose of calling in to action those indispensable resources that were so imperiously demanded for meeting the urgent and daily necessities of the state, which have been a source of unceasing perplexity to the government from the first moment of its installation. What has been the state of the public treasury, from that period to this, will sufficiently appear from the repeated representations made by the executive to congress. It is, therefore, quite nugatory again to allude to the lamentable appearance it presents, and which has been already submitted to the consideration of the representatives, without ever producing the effects that might reasonably be expected, and which were equally demanded by necessity, reason, and sound policy.

“ The cause that has induced me to adapt the resolution of tendering my resignation, is the alienation and neglect manifested by all parties towards the executive power.

which has been left to the mercy of public opinion, without aid or hope, to steer its course amidst a thousand hidden rocks, which must ultimately be its destruction. Some other individual, more fortunate than he who addresses you, or more experienced in the science of making nothing out of something, may succeed one, whose unhappy fate it has been to struggle with insuperable difficulties; at one time to oppose dangerous innovations, at another to discomfit the most absurd and inexplicable theories; now to foil the intrigues of party, now to calm the ardour of passions neither elevated nor generous."

This it must be confessed, is a melancholy picture of confusion and disorder. Indeed the pecuniary embarrassments of the government of Chile seem to fall but little short of those, which oppress the other republics of the south. They seem to be wholly unacquainted with the principles of finance; and instead of adopting decisive measures for permanently arranging their revenues, so as eventually to obtain relief from the debts with which the war of the revolution left them encumbered, they have recourse to temporary expedients and improvident shifts, which only serve to plunge them deeper and deeper in misfortune. The mode provided by Chile for paying the Chilean bondholders in London, fairly illustrates the mischievous nature of

their financial system. In order to meet the interest punctually as it became due, the government conveyed to a mercantile company the monopoly of certain articles of general consumption, in consideration of which the company undertook to discharge the interest of the national debt regularly as it accrued. It would not have been easy to maintain such a monopoly in Chile, even under the Spanish system of administration; but the difficulties attending it were augmented in a tenfold degree, under a government, which relied altogether upon its popularity in the public opinion for its very existence. The consequence it is easy to imagine. In the hands of the government, the monopoly would have been odious; in the hands of a body of private speculators it was likely to prove intolerable. Hence the company, beginning to apprehend they should derive no gain from their present bargain, declared that they could not discharge the interest of the debt, unless the government should grant a large extension of their exclusive privilege. And as the executive dared not comply with this demand, the Chilean bondholders remained unpaid, like the creditors of Peru and Colombia.

Notwithstanding the prostration of the public credit abroad, the proceedings connected with the new organization of the executive would

seem to show, that the members of the legislative body had not desisted from the improvident course of conduct, of which admiral Blanco so bitterly complained. Instead of a supreme director, in whom the executive power had formerly been vested, the Chilians adopted the style of president and vice president, in imitation of the United States, the great model of the new republican governments. D. Ramon Freire, the ex-director, was chosen president, and general Francisco A. Pinto, vice president. While the congress were engaged in discussing the provisions of the projected constitution, it became necessary to instal the chief magistrate; and the discussions were suspended for a while, by reason of Freire's renunciation of the presidency of the republic. The renunciation was received and read in the session of May 2d, 1827, and referred to the committee of government, to consider and report thereon. On the 4th, they made a report, which being deemed unsatisfactory, was recommitteed by congress, with instructions to report in a more specific manner. This committee reported once more on the 5th, in favour of accepting the renunciation. After some discussion, it was voted, 1. to accept the renunciation of the president; 2. that the vice president should perform his duties, according to law; 3. that the president of the legislative body should signify to general Freire the sentiments of regret felt by the national representation, at the termination of his supreme command, which he had discharged so greatly to the public satisfaction. The votes were communicated to him, with a request, that he would continue to exercise the supreme authority, until it was regularly committed to the vice president; and at the same time, a communication was made to the latter, announcing to him, that he was called upon by law, to fill the office vacated in consequence of the president's resignation being accepted by congress.

On the 7th, a note was received from general Pinto, resigning his office of vice president of the republic, and soliciting congress to accept his resignation. This being referred to the committee of government, they reported a set of resolutions, which were adopted without debate, as follows: "1. The resignation of the president of the republic being accepted, his duties devolved by law upon the vice president elect; and the reason assigned by him for resigning, *because the country is destitute of any laws*, is considered insufficient; because congress ought to enact opportune laws as occasion requires, to facilitate the march of government; this body, hoping that he will propose them by virtue of the initiative conferred on the execu

tive power; and therefore the resignation tendered, is not accepted.

2. The president of the house, (Elizonde) will communicate these resolutions to the vice president of the republic, inviting him to repair to the hall immediately, and take the oath of qualification. Upon receiving this communication, Pinto replied, that he submitted to the wishes of the national representation; but prayed that his installation might be deferred until the next day, in consequence of his being indisposed. The report of the proceedings mentions, without any expression of disapprobation, that the spectators, who had attended the bar of the house in great numbers on this occasion, testified their applause, by loud clapping of hands, and other signs of gratulation.

Accordingly, on the next day, the 8th of May, general Pinto was introduced into the hall of sitting by a committee of four of the deputies, appointed for that purpose. He took the oath of office immediately, and was belted with the three coloured band, which is the distinctive ornament of the chief magistrate of Chile. Seating himself then, at the left of the presiding officer, he pronounced the following address:

*"Gentlemen:—In binding around me this belt, I feel that I am assuming obligations of transcendent importance. Aware of the burden*

*it imposes, I could only hope to sustain it by counting, as from this moment I confidently do, upon the assistance of your councils, to enable me to satisfy the just demands of the people. So soon as they have ceased to be occupied by the war of independence, they have turned all their attention to considering the means of assuring their social existence. Hence that inquietude, misinterpreted by some, but which, subjected to rigorous scrutiny, will be found to proceed only from the want of laws, or from the contrariety between those which have been enacted, and the old colonial regulations. In your hands, the destiny of the people is placed, and the republic and the government expects every thing from the wisdom and purity of congress."*

To this brief address, the president, Elizonde, replied in a discourse suited to the occasion. The new organization of the government was afterwards completed by the nomination of D. Jose Migueltola to be minister of the interior, and of foreign relations; D. Ventura Blanco Encalada, of the treasury; D. Jose Manuel Bello, of war and marine; all which nominations were confirmed by congress.

Chile was free from any apprehension of hostilities on the part of Spain, and remained on perfectly amicable terms with the other

states of America. Indeed, the overthrow of Bolívar's Peruvian constitution, while it relieved the Chilians from unceasing anxiety respecting their dangerous neighbour, induced them, for that reason, to unite more closely with the new government of Peru. So long as Bolívar continued at Lima, Chile was the refuge of the discontented Peruvians, and could not feel secure for a moment from the ambitious designs of Bolívar, who, in concert with the ex-director O'Higgins, had once occasioned a revolt in Chiloe, and although finally unsuccessful in that attempt, probably had not abandoned his original purpose. But while delivered from immediate fear in that quarter, Chile was still subject to the incursions of the Indians in the southern extremity of the republic. The savages were led by Marillean, Pincheira, and other relics of the royalist party, who, when the republicans obtained the control of Chile, took refuge among the independent tribes in the south, and maintained themselves by a system of robbery and pillage, which they dignified with the name of war. But they were so hard pressed by the Chilean forces, that several of the leading Spanish refugees were making overtures of accommodation, weary of living a life of hardship and privation among their savage companions.

The great subject which has agitated the Chilians during the period under consideration, has been the question concerning the nature of their government,—whether it should be modelled upon the central or the federal system. Warmly attached as we are to the admirable form of government enjoyed in the United States, the best adapted, we conceive, to the circumstances of our country, which the art of man could devise,—still we cannot avoid being impressed with the forcible reasoning of those who oppose its establishment in Chile. As the topic is curious and interesting, we conclude our account of Chile with a statement of the discussions which it has awakened there. When the congress of 1826 decreed to frame the constitution according to the federal system, as incident thereto, they established provincial assemblies in the great sections of the republic, whose business it should be to ratify the constitution, to be proposed by congress to them as the immediate representatives of the people. But these very assemblies, by usurping authority which does not belong to them, and by interposing beforehand in the discussion of the constitution, have done much to defeat the whole object.

The assembly of Concepcion met late in the year 1826, and one of the first acts of the body, imme-

diately after its organization, was the preparation of an elaborate memorial, under date of December 3d, strongly representing to congress the unfitness of the federal system for Chile. This paper is not very ably drawn up, and does very imperfect justice to the question; but it served at least to manifest the feelings of the assembly, and to produce its influence as their public act. But the proceedings of the assembly of Santiago attracted still more attention. On the 15th of March they addressed a communication to the Chilean congress, covering a copy of the instructions given to their deputies, requiring them to oppose every disposition, constitutional or partial, which tended to establish a formal federation, and to destroy the national unity and consolidation; and instructing them to support a system which, while it preserved the unity of the republic, should confer on the provinces the power of overseeing and regulating their internal economy. The delegates from Santiago desired the advice of the legislative body respecting their duty; and much dispute ensued upon the point both in the public journals and in congress. But as the assemblies had no authority to give instructions to their delegation, being constituted only to discuss and examine what congress should submit to them for ratification, not to dictate in anticipation

what should be so submitted, it was decided that the instructions had no binding force upon the deputies as members of congress. Every one will admit the propriety of this decision; but yet the assuming to give instructions in congress, of which not only Concepcion and Santiago, but Coquimbo also was guilty, was a small usurpation of authority, compared with other acts which followed. The assembly of Santiago voted that no law of the national congress should be enforced within the limits of the province without their approbation. That of Colchagua took possession of the national funds contributed by the province, and appropriated them according to their own judgment. All these proceedings indicate the nature of the evil, and clearly show in what way it should be remedied. The dissolution of the provincial assemblies would be the first step towards improvement. But this would be of little avail, unless the idea of introducing the federal system, where every thing is adverse to it, should be abandoned at once. From the political disquisitions in the Chilean journals, and the memorials of Concepcion and Santiago, there is no difficulty in collecting a fair view of the question.

They who supported the federal system, and who must have done it in good faith, however much mistaken in their views, objected to the plan of centralism, that, a

though more simple, more expeditious, and better adapted to prevent political convulsions, yet that, in the ordinary course of things it must be prone to degenerate into the worst of all forms, a tyrannical oligarchy. It tends, they said, to centralize riches in the point where the supreme powers reside, impoverishing the other departments, because while the former offers splendour, conveniences, security, and the place and means of aspiring to rank and honour, the latter is destitute of all attractions fitted to allure the rich and enlightened, and affords no room to exhibit opulence, nor any objects of pursuit worthy to sustain ambition. All the advantages of government would be likely to fall upon the provinces near to the capital; all its disadvantages upon the remoter departments of the republic. This, however, was mere general theory, and its inapplicability to the actual condition of Chile will appear from a brief examination of the other side of the question.

Chile is a single undivided state, containing a population of about a million, and having thus far proved wholly incompetent to support the expense of one administration. Its internal organization bears no analogy whatever to the United States. The Chilean federalists, in proposing the frame of government of this country as their model, have failed to reflect that they proceed

in direct opposition to the principle, which actuated our wise and prudent forefathers. Federation in Chile signifies a new thing, and must produce results entirely contrary to those, which it produced in North America; as any one may perceive who observes and compares the different circumstances of the two countries, without being deceived by names. Here, where the object was to organize states, which had been separate and independent from their very foundation, federation did produce, and must necessarily produce, union. But there, where the political system has always been one kingdom, presidency, or capitania, federation must produce the opposite effect of division.

If the example of the United States were adduced as proving the utility and convenience of confederating all the new states of Spanish South America, it would certainly be strictly applicable; and it might be easy to demonstrate the expediency of such a combination of sister states, which are now separate in point of fact. Federation among them would constitute an easy, honourable, useful, convenient, and truly fraternal mode of union. But to establish the principle of confederation among those communities which are denominated the provinces of Chile, would only be to introduce a temporary anarchy, whose duration it would



be impossible to predict, but which it is probable would soon terminate in a scene of disorder, that would tempt some skilful soldier of fortune to interpose, and make himself master of the government.— These provinces possess neither adequate size, population, and revenues, nor a sufficient number of freeholders and men of intelligence, nor the habit of living in such a state of separation. Nor could the requisite provincial interests exist in Chile, without creating a set of narrow little politicians, who would be driven to rely upon personal or family prejudices and local antipathies for the support of their influence. The consequence would be, a general spirit of political dissolution, feebleness, and confusion, instead of that harmonious order, that regular subordination, that cheerful and well understood concert, that systematic march of public institutions, that independent, yet mutually adjusted action; all which so remarkably characterize the political organization of the United States.

What the operation of the federal system in Chile would be, according to the sentiments of the central party there, in which we fully concur, may be explained by an obvious illustration. Massachusetts, New-York, Pennsylvania, Virginia, and the other original states, had been regulated ever since their settlement as distinct

governments, perfectly independent of one another, although occupied for the most part by English emigrants, and subjected, more or less, to the direct control of one common head, the king of Great Britain. When the war of the revolution broke out, they confederated for the common defence, and afterwards combined more closely in a permanent federal union. But suppose they had each revolted from the English government separately, and, whether contemporaneously or not, yet without any organized concert; and had thus individually fought their way to independence, having no common leader, no common congress, no common army, and no common funds for prosecuting the struggle; the more powerful and successful occasionally lending aid to their less fortunate neighbours, but each and all still retaining their old separate distinct political systems:

In such circumstances, what should we think of a proposal to subdivide New-York, or Pennsylvania, into twenty little states, to be confederated together under a general state government, giving to each of their counties, for instance, a legislature, a judiciary, and an executive authority, and all the expensive train of public officers necessary to constitute an independent government: Would not this be considered as doing wanton violence to the existing social system,

introducing disunion and separation under the name of confederacy, and subjecting the people to a weight of public taxation, absolutely insupportable even in the rich and thriving country where we have the happiness to live! And yet this Utopian scheme, which, when applied to a state of things where-  
 • with we are familiar, is so manifestly wild and chimerical, is precisely what the central party are seeking to avert from Chile. To endeavour  
 • to apply to Chile, which is and has always been *one*, a constitution designed for a cluster of states, they justly describe as nothing better than cutting up Chile into a collection of *Cilicithos*.

Mexico and Central America, it is true, have adopted the federal system; and a portion of the Colombianians profess to desire it, as well as some of the provinces of Buenos Ayres. But in Mexico, the proceedings of the last year show how difficult they find it to accommodate themselves to a system so new and strange to them. Central America thus far has tended to prove, that federation must be the natural union of several states, not the artificial division of one, in order to operate advantageously for the public good; because its constitution, by forcing upon the country five separate governments, and their attendant expenses, has led to nothing but confusion and civil war. Colombia

and Buenos Ayres afford cases more favourable to the introduction of the federal system than any other South American states; the latter, on account of the distance and extent of its provinces; the former, because it is in fact an aggregation of territories formerly distinct. The distracted condition of the provinces of La Plata may be ascribed in great part to the Brazilian war; and therefore we omit to allege their case in support of our position. Colombia being composed of the three separate Spanish governments of Caraccas, Santa Fe, and Quito, would easily admit of being subdivided into the same number of states, and of thus receiving the federal form of administration. Yet even there, the better opinion seems to favour the central system. The cause of independence in Colombia was almost desperate, until Venezuela and New Grenada united preparatory to a consolidated government; and under its influence the prosperity, power, and respectability of the republic had gone on gradually increasing, until the partizidal insurrection of Paez in Venezuela, and the machinations of the adherents of military despotism on the Pacific, interrupted the auspicious march of affairs. So that while the theoretical argument among the Chilians is decidedly in favour of continuing the central system there, the central party derive strength and confi-

dence from, or at least are not answered by, the example of the other South American republics.

Upon this question are the parties in Chile divided. The plan of the federal party is to introduce their system gradually, and by piecemeal. They feel convinced, by the proceedings of the provincial assemblies, that an attempt to introduce the federal system in all its parts at once, will surely defeat the whole plan. Hence they desire, by the gradual adoption of separate portions of it, to accustom the people to its operation; thinking they will thus be finally brought to approve it in the whole. The central party, on the other hand, insist upon the inexpediency of the entire system, the unfairness of endeavouring to corrupt and deceive the people into it, by means of government patronage, and government presses; and the necessity of immediately completing a suitable constitution, which may put an end to the embarrassments of the republic.

The government of Chile, therefore, still remains to be organized, on a permanent footing. Three attempts have been made to effect this purpose, at three successive periods since the revolution commenced; but all of them have proved unsuccessful. In 1823, the first constituent congress framed a constitution, which was destroyed a few months after it had been

solemnly sworn to, with great pomp, and extraordinary ceremony. Its imperfect organization and division of the powers of government: its great complexity, which rendered a multiplicity of details necessary; its great obscurity; and other marking defects, conspired to bring it to a speedy and unregretted end. Another constituent congress was installed in 1824, under auspices apparently more favourable; but unhappily, it became, ere long, a prey to the spirit of faction, and led to scenes of scandalous anarchy, which produced its dissolution by means not the most regular, but the irregularity of which was overlooked, in consideration of the necessity of the measure. We pass by the congress of 1825, because it was, in fact, nothing but an assembly of the province of Santiago; and was dissolved by the executive, for its attempts to exercise a national authority, to which it was not entitled. Finally came the third constituent congress of 1826, which promised much better things than either of its predecessors, and lasted for the uncommon period of a year. But the causes which we have explained at some length, defeated the objects of this congress, and led to its dissolution, leaving the country as destitute of any fundamental law as ever. Its last act was the appointment of a national committee of eight persons, author

ized to approve or reject all propositions which the execution might submit, thus discharging the twofold duty of a council of government, and a provisional legislative body ; and further authorized and required to draw up the plan of a constitution, on the basis of such general principles as may be agreed upon by the *cabildos* and provincial assemblies. And at this point stood the general government of Chili, near the close of the year 1827.\*

\* The materials of this chapter are obtained from the files of the *Telegrafo de Valparaiso*, *Patriota Chileno*, *El Verdadero Liberal*, *La Estrella de Chile*, *El Cometa*, and *La Cola del Cometa*, *La Clave Extraordinaria*, and *El Independiente*, newspapers published in Chili.



## CHAPTER XIII.

*Brazil and La Plata.—Folly of the war—False policy of the republic—Dissensions—Bank of Buenos Ayres—Minerals—State of the war—Invasion of Rio Grande—Battle of Ituzaingo—Consequences—Brown's success—Both parties desire peace—Garcia's treaty—Rejected—And justly—Garcia's defence—Rivadavia resigns—Lopez elected—Government of Buenos Ayres—Dissolution of the republic—Cordoba and Buenos Ayres unite—State of the war—Brazilian ministry—Mr. Raguet's departure from Rio—Paraguay.*

THE continuance of the war between BRAZIL and the PROVINCES OF THE RIO DE LA PLATA, renders it convenient to treat of the affairs of these two countries in conjunction, as this war occupies so prominent a place in their history. The dissensions, which have distracted the several portions of the republic, contribute to heighten the picture of calamity, which those fine regions present. The anarchy of the Buenos Ayreans, like the despotism which oppresses the Brazilians, is aggravated by the horrors of an idle and useless contest, which preys upon the resources and prosperity of each, without promising any advantage of adequate importance to either. It was preposterous in Pedro, already possessing an empire of such enor-

mous magnitude, to seek to enlarge it by conquest, usurpation, or violating the rights of his neighbours. And it is preposterous for the republic to jeopardize its own existence, in fruitless endeavours to extend itself over all the provinces comprehended in the old viceroyalty of Buenos Ayres.

It seems to be a prevailing error in South America, that, on the one hand, the several component portions of the respective Spanish governments do not fully appreciate the advantages of union to themselves; and that, on the other hand, the ancient capitals of those governments are excessively and unreasonably anxious to effect a consolidation, which is worse than useless, if it be not voluntary. Evidence of this may be found in

the recent history of all the large republics; and especially that of La Plata. The extent of the viceroyalty of Buenos Ayres was always inconveniently great; and circumstances have conspired, since the commencement of the revolution, to facilitate the subdivision or dismemberment, to which it was naturally inclined. Upper Peru, although subject to Buenos Ayres, necessarily, from its local position, follows the fortunes of Peru, not of Buenos Ayres; and it is vain for the politicians of La Plata to refuse the liberty of self government to the Bolivians, with whom they will never be re-united, except as allies, or as the common subjects of some too successful conqueror. As little can the Buenos Ayreans hope that Paraguay shall belong to them, in the ordinary course of events. Their new attempt to regain the Banda Oriental seems hardly nearer a happy consummation now, than it was when Artigas maintained against them the independence of Montevideo. These cases illustrate the remark, that the government of the republic has taken a wrong view of the supposed necessity of preserving the integrity of the old viceroyalty.

It is equally evident from the proceedings of the interior provinces of the republic of La Plata, that they are ignorant of the commonest principles of political wisdom, and destitute of all sound views of their

own interest! Nothing else can satisfactorily account for the groundless hostility they manifest towards Buenos Ayres, their frequent eruptions of strange disorder, their invasion of one another's territory, upon the pettiest subjects of difference which ever agitated men. We related some unhappy instances of this, in the preceding volume; but since then the evil has increased beyond measure.

We left the general congress occupied with the discussion of a fundamental code. They had resolved to follow the system of central unity; and the plan of constitution reported was almost identically the same as that of Colombia. For the reasons stated in our chapter on Chile, we think it may reasonably be doubted, whether the federal system can be introduced beneficially into each and all of the old Spanish governments; but there is reason to think that the viceroyalty of Buenos Ayres affords us fair a field for the trial of it as any part of South America; because it is naturally and easily divisible into separate portions. Perhaps, therefore, it is unfortunate that the federal system was not selected by congress for the basis of their constitution; because the introduction of centralism has furnished the interior provinces with a pretext for inveighing against the ambition of Buenos Ayres, and the

demand of a federal constitution has proved a convenient rallying word for the disaffected. But the example of Central America, shows that stability would not necessarily attach to the federal system. Indeed, congress hesitated to fix upon the central plan, without first consulting the several provinces, and ascertaining that a majority preferred it, before proceeding to sanction it as the fundamental law of the republic.

Nevertheless, towards the close of the year 1826, and early in the year 1827, the interior provinces were given up to the most deplorable anarchy and confusion. Detached notices occasionally reach us through the South American newspapers, plainly indicating the unhappy state of things. Thus, in January, 1827, we read accounts in the Buenos Ayrean journals, of the province of San Juan being taken possession of by D. Facundo Quiroga, at the head of four hundred men from Rioja, who compelled the governor and his troops to retire to Mendoza, and seek for succour there: an incident resembling what had occurred at the same place the year before. Quiroga having routed Lamadrid, entered into Tucuman, with Ibarra, governor of Santiago del Estero, who, like Bustos, the governor of Cordova, refused to recognise the authority of the national government. But they were after-

wards attacked, and their forces dispersed, by colonels Bedoya and Heredia, who then entered into the city of Santiago. When the provinces of Cordova, Rioja, and Santiago del Estero, were thus in a state of open revolt, carrying their arms into Tucuman, and yielding only to superior force, to stop their career of violence, we may conceive the disordered condition of the republic.

Afterwards, an engagement was fought in the vicinity of Salta, in which colonel Bedoya, who commanded a division of 214 men, in behalf of the general government, was defeated, and slain, with 170 of his followers. In consequence of this, the governor Arenales found it necessary to fly, taking, it was supposed, the road for Chile, by the cordillera of Huasco; and in his place, the federalist chief D. Jose Francisco Gorriti, succeeded to the command. The latter was principally enabled to do this by means of a body of Colombian grenadiers, of the division cantoned in Bolivia, who mutinied in the province of Cochabamba, and passed over the lines into Salta. This incident gave many persons occasion to say, although the imputation was entirely without foundation, that the whole was an intrigue of Sucre's. It is not credible, that Sucre, if disposed to aid the federal party against the centralists of Buenos Ayres, of which there is no



evidence, would have adopted means so fatal to the discipline of his army as the promotion of a fictitious insurrection. In fact, the mutinous grenadiers, to the number of 180 men, beat off the division of general O'Connor, who pursued them, and they, no doubt, joined the insurgent chief Gorriti, instead of Arenales, because they must have submitted to more exact discipline under the latter. Besides, president Sucre would never have intrusted such a secret to the keeping of 180 private soldiers. On the contrary, the federal party in Salta accused Sucre of sustaining Arenales, who, as many thought, intended to take refuge in Chuquisaco. The chief subjects of complaint against Arenales, on the side of the insurgent party, were the prolongation of his command in the province, and the introduction there of the paper of the bank of Buenos Ayres.

The foundation upon which this bank was established, was in violation of all the soundest and most undeniable principles of political economy. It has been the misfortune, however, of many countries in modern times, to try most ruinous experiments in banking, when the government was pressed by pecuniary embarrassments. Nothing but the peculiar circumstances of England could have sustained the credit of its bank paper, when the specie payments of the bank of En-

gland were suspended; and therefore the original establishment of a bank in Buenos Ayres, upon the principle of not paying in specie on demand, necessarily could result only in augmented financial distress. Regardless, however, of the considerations appertaining to the actual condition of the country, regardless of all the lessons of experience, the state-men of the La Plata planned an institution, in which loss and ruin were inherent qualities. Congress enacted a law for the creation of a national bank, which should redeem some of its notes during the first six months of the year following the date of the law: only one third of the bills in circulation during the next six months; only one half in the six months ensuing; and only two thirds during the last moiety of the second year: and no payments being allowed at all, except in ingots of a thousand or five hundred dollars each. At the same time it was provided that the notes should be current for their nominal value throughout the whole territory of the republic. The consequences were easy to be foreseen. No purchases could be made of foreign merchants in this currency; nor would it be acceptable in London, in discharge of the dividends on the national debt. Of course a great depreciation followed instantly upon the issue of the notes. As the government received them in payment of taxes,

the revenue suffered an actual curtailment in exact proportion to the amount of depreciation. All duties upon foreign commerce had fallen off, in consequence of the blockade of the city of Buenos Ayres; and in this season of embarrassment and confusion, with the prices of all articles of consumption greatly enhanced, the industry of the country diverted into the business of the war, and the union upon the eve of complete dissolution, the government was compelled, in the very regions associated with the idea of mineral wealth, to buy dollars at a premium of forty per cent., in order to make its remittances to Europe.

This project of a national bank, born to insolvency, was the result of imperfect ideas upon the subject of banking, and of the want of political skill, forethought, and judgment. But another fact is mentioned in the English petitions, which shows the indecency of the government, and the absence of all efficient control over the provinces composing the confederacy. In Buenos Ayres, as in other parts of Spanish America, the revolution, which threw open every thing to the schemes of private speculation, drew the attention of monied men to the mines, from which such immense quantities of silver had been extracted under the colonial authorities.\* English capital quickly sought for investment in this new

and tempting field of speculation: and the consequence was, among some few fortunate attempts, a great number of deplorable failures, in which large quantities of good silver were expended, and very little obtained from the earth in return. A company was formed, among the rest, under the name of the Rio de la Plata Mining Association. Capital was subscribed, and considerable expenditure incurred in the purchase of machinery, hiring of miners and agents, and other preparatory steps: the government of the republic having contracted to assign to the company certain specific mines, as the subjects of its operation. But when the agents of the company went to look for their mines, it seems the provinces in which they were located, refused to confirm the contracts of the general government, claiming a right to dispose of the mines according to their own views. The same influence befel an agricultural association, and a society for emigration, both formed under the auspices of the government, and acting upon the faith of its assurances.

So ineffective were the operations of the war between Brazil and La Plata, during the year 1826, that, without passing them in review here, as we intimated an intention of doing, in our account of that year, we shall content ourselves with narrating the most im-

portant incidents which have since transpired. During the last months of that year, things were not materially changed in the theatre of the war. A Brazilian fleet continued to blockade Buenos Ayres, with more or less strictness, but so effectually on the whole as to ruin the commerce of the city, although vessels occasionally succeeded in penetrating the blockading squadron. Sometimes, also, Buenos Ayrean brigs of war, and privateers of small draught or great fleetness, passed up or down in defiance of the Brazilians. A heavy force of Brazilian vessels cruised between Buenos Ayres and Montevideo. On the other hand, to counterbalance these advantages on the side of the emperor, the gallant admiral Brown, with a small squadron of one brig, six schooners, and six gunboats, was blockading a Brazilian flotilla of twenty-one sail in the Uruguay. Admiral Brown, with his swift sailing brigs and schooners, or privateers under the flag of La Plata, cut off every Brazilian merchantman between Montevideo and Rio, and indeed swept the Brazilian seas, making the greatest havoc in their mercantile marine, and occasionally engaging in a successful skirmish or fight with their ships of war. So that, on the whole, each party was interfering extremely by the other's operations, which, nevertheless, were not of a character to produce any decisive result. Of the effect

of the whole on the trade of the two countries, the money market furnished an obvious and sure criterion, dollars bearing a premium of fifty or sixty per cent. at Rio and doubloons and other specie obtaining a still higher price at Buenos Ayres. Thus far, each party seemed to accomplish nothing but the wearing itself out by its own ineffectual efforts.

In December and January, appearances indicated that they designed some important movement by land, which it was to be hoped would not end in empty threats and idle bravado. The emperor's voyage to St. Catharine's and Rio Grande, from which so much was anticipated, led to no results of any moment. His departure on the expedition, seems to have produced some apprehensions at Buenos Ayres; inasmuch as Rivadavia issued a proclamation upon occasion of it, announcing the fact, and earnestly exhorting the citizens of the republic to develop all their resources in self-defence. All parties were disappointed, therefore, by the emperor's return to Rio, on the 15th of January, after less than two month's absence, having left behind him no perceptible impression upon the operations of the war. The main body of his troops remained in the province of Rio Grande, a detachment of field still garrisoning Montevideo and Colonia in the Banda Oriental. With

straightened revenues, a crippled navy, and an army which subsisted only through the weakness of his adversary, Pedro manifested no disposition to renounce or qualify his pretensions over the Banda Oriental. And on the other hand, the best accounts represented the republicans, amid all their dissensions, as growing more and more exasperated against the emperor every day, and as being determined to suffer any thing rather than abandon the rights which they claimed. In fine, their preparations indicated an approaching attempt, on their part, to carry their arms into Rio Grande, with the purpose of risking a battle, and the hope of stirring up the inhabitants to insurrection; and with the certainty at least of an opportunity to ravage and despoil the enemy's country. And in anticipation of this, the emperor proceeded to concentrate his forces, indicating the like willingness to run the hazard of a battle.

Accordingly, the Buenos Ayreans began by drawing closer the siege of Montevideo. Previous to the middle of November, general Soler arrived before the walls with an additional force of 1200 men; and some dissensions, which existed among the officers of the republican army, were accommodated by the intervention of D. Carlos de Alvear, the commander in chief of the army of La Plata. The latter at length collected an army of 4000

men, all represented as being in good condition, and more especially the 2000 troops of cavalry from the eastern bank, composing the vanguard. General Alvear threw himself between the van of the imperial army and Rio Grande, and continued to advance upon this city, paying due respect to the property and persons of the inhabitants. The Buenos Ayreans made several attempts to bring on a general engagement. Colonel Lavalla attacked and beat a division of imperialists under Ventos Manuel on the 13th of February; and on the 17th, the same officer was again defeated by General Maucilla.

At length, on the 20th, the two armies fairly encountered each other on the field of Ituzainga. They were about equal in numerical force, according to most accounts; and Alvear himself admits that skill and energy were displayed on both sides. The Brazilians, aware of the powerful charge of the Buenos Ayrean cavalry, covered their centre and flanks with a large body of German lancers; and the battle was obstinately disputed for the space of six hours. The republican cavalry twice charged the enemy, without making the desired impression, but being harrassed by their commander, and pushed on to the charge a third time, they succeeded in penetrating the imperial line, and decided the fate of the day. The

Brazilians left on the battle ground more than twelve hundred dead, including Marshal Abreu, ten pieces of artillery, all their munitions of war and baggage, and a large number of prisoners. On the other hand, the Buenos Ayreans lost, according to their own accounts, only four hundred wounded and killed, among whom the only officer of rank was colonel Brandzen. Congress passed a vote of thanks to general Alvear and his forces for achieving a victory, which, if followed up with adequate spirit and vigour, might be deemed of great importance.

Indeed, at first, general Alvear pushed his success with great ardour, and marching in full pursuit of the Brazilians immediately after the battle, entered S. Gabriel the 26th of February, still following up his victory. Notwithstanding this, an account of the several engagements was published in Rio, which, while it admitted that the Brazilians were defeated on the 20th, and that they had lost Abreu and 2000 men in the whole affair, contained a statement of a battle on the 21st, in which the Buenos Ayreans were said to have been beaten with the loss of 3000 men. All this was a sheer fabrication, invented probably to counteract the effect which the defeat of the imperial army might have upon the Brazilians; because the continued advance of the republican army is

satisfactorily proved. But the pending negotiations for peace, which we shall presently describe, appear to have occasioned a suspension of the active operations of the army, at a time when there was every prospect of its obtaining entire possession of the whole province of Rio Grande.

Subsequently to the battle of February 20th, the greatest consternation prevailed in the Rio Grande, where business was entirely suspended, and the richest inhabitants prepared to leave the place with their effects, there being no adequate force to arrest the movements of the republican army. Indeed, the latter could have taken military possession of the province at any time immediately after the battle of Itzaingo; for the Brazilian troops were unable to make any stand against the invaders: and kept themselves wholly on the defensive, for two or three months. A slight skirmish took place on the 15th of May, between a body of 400 Brazilian troops, and a small party of Buenos Ayreans, who were amusing themselves in a village, in advance of the army; and being surprised with their arms stacked, were all killed, or taken prisoners. Among the latter was major Laval-leja, a nephew of the general of that name. At length the Buenos Ayrean army fortified themselves at Beja, about forty leagues from Rio Grande, with an advance guard

of 2000 troops commanded by general Lavalleja. They generally treated the inhabitants well, but not without making predatory incursions into the districts held by the Brazilians. Thus, on the 1st of June, about 300 of their cavalry came within twenty miles of Rio Grande, carried off a large number of cattle and horses, and then fell back to the main army. But the negotiations for peace, and the setting in of the winter season in the rainy climate of the southern temperate zone, contributed to produce a cessation of active measures on either side.

Meanwhile, admiral Brown's gallantry was gaining considerable honour, though small advantages, for the republican arms on the water. On the 8th of February, he compelled five Brazilian vessels on the Uruguay to surrender, and three others, which ran ashore, were burnt by the enemy, to prevent their falling into his hands. The rest of the Brazilian squadron stationed on the Uruguay, ten in number, escaped up the river. Upon this, Brown constructed several batteries to command the mouth of the river; and fortified the island of Martin Garcia, lying opposite its entrance, so that by means of his little fleet and the cannon upon the shore, he completely shut up the Brazilian vessels; which, as the republicans occupied the shores, were soon obliged to surrender uncondi-

tionally. After this, Brown descended with his vessels to Buenos Ayres, and attacked the Brazilian blockading squadron in the outer roads, which he forced to retire, and seek protection from one of the frigates lying at some distance below, with the loss of a brig of twelve guns, blown up in the encounter.

Some other slight engagements occurred shortly afterwards, generally to the advantage of the Buenos Ayreans. The Brazilians despatched an expedition against a Buenos Ayrean settlement on the Rio Negro, which terminated in the loss of a corvette, and two schooners belonging to the assailants; and the total failure of the expedition. A more desperate action took place on the 9th of April, where the bravery and gallantry of admiral Brown were exerted against fearful odds. The republican squadron, consisting of the barque Congreso, the brigs Republica and Independencia, and the schooner Sarandi had attempted to sail out; but unluckily the two brigs grounded off Ensenada, and in this situation, admiral Brown fought nearly all the Brazilian fleet, consisting of a large frigate, 4 corvettes, 8 brigs, and a number of schooners, for two days and two nights; and at last finding the brigs could not be saved, he removed the crew of his flag ship the Republica on board the Sarandi, set fire to the former; and the Indepen-

dencia having sunk in the battle, he returned to port with the schooner and barque, in defiance of the Brazilians. The latter lost 200 men in killed and wounded, and six of their large vessels being much cut up, were obliged to proceed to Monte Video to refit. It may well be credited, that admiral Pinto Geddes, who commanded the blockading squadron in the La Plata, should have deemed reinforcements necessary, to enable him to withstand all the prizes of the active and intrepid Brown.

Notwithstanding the apparent obstinacy of the parties in continuing the war, yet it is not to be doubted that both had long been extremely anxious to bring it to an honourable conclusion. The inefficiency, the inefficient slowness, with which they prosecuted hostilities on each side, would have betrayed their poverty of resources to the most superficial observer. But persons residing in Brazil or Buenos Ayres could perceive that both governments were heartily desirous of peace. The finances of each country were in a state of the most deplorable disorder. They depended upon commerce for the public revenues; and while Buenos Ayres was blockaded by Brazil, and the coast of Brazil swarmed with Buenos Ayrean privateers, the effects of such a condition of things, were quickly perceived in

an exhausted treasury. Millions of paper money inundated the two countries, whose governments, in the infancy of their national existence and of their resources, rashly subjected themselves to burdens which none but the wealthiest and most prosperous communities can safely assume. The republic of La Plata was not yet organized, and prosecuted a war of foreign invasion, as in one sense, it might fairly be termed, before it had acquired a constitution, or any bond of union, except a feeble league which any of the states might and did infringe at pleasure. Brazil was possessed of a government naturally more stable; but needed all its resources for purposes of internal consolidation and improvement, not less than La Plata. And certainly Pedro did not consult the security of his power, in subjecting it, ere it had acquired firmness and strength, to the rude shocks of war. It would seem likely therefore that the cabinets of Buenos Ayres and Rio de Janeiro would both lend a ready ear to proposals of accommodation or offers of mediation.

Great Britain, it was well understood, busied herself to bring about a peace. Her stake in the prosperity of the belligerent states was, in various ways, too deep to be slightly regarded. The wealth of her capitalists was embarked in loans to the new governments, or

in mining, or other speculations within their territory. Having recognised their independence, actuated by the principle of their actually possessing freedom, and of their capacity of self-government, she was interested in seeing them flourish in tranquillity, in order to preserve her reputation for policy and forecast. Mr. Canning had ostentatiously taken them under the protection of his administration, and boastingly claimed them as the creation of his political wisdom, because Great Britain looked to them as the market of her manufactures, to acquire and to extend which seemed to be the cardinal point of all her diplomatic movements. Accordingly it was understood that Lord John Ponsonby, the British minister in La Plata, whose public reception at Buenos Ayres took place the 29th of August, 1826, exerted himself to put an end to the war, not only by tendering the preliminary resolution of his government in order to effect the object, but further by proffering a guaranty of such treaty of peace as might be concluded. Lord John Ponsonby, it is said, advised the government of Buenos Ayres to send a minister to Rio as a mark of respect for the emperor of Brazil, expressing a belief that an honourable peace would grow out of the step. Whether he actually proposed that British troops should occupy Colonia and Montevideo,

or whether it was mere jealousy of England which led to the belief, we know not; but the opinion prevailed at Buenos Ayres that such a proposition was made. Indeed, the convenience to Great Britain of possessing a place of deposit for merchandise in South America, and the singularly advantageous position of Montevideo for such a purpose, are strikingly obvious to every observer.

At any rate, the fact soon became known, that D. Manuel J. Garcia repaired to Rio as plenipotentiary of the republic, and that preliminaries of peace were signed there the 24th of May, which it was supposed would be ratified by the government at Buenos Ayres. And the publication of this intelligence diffused, for a time, the greatest satisfaction both in Europe and America. But this satisfaction was only temporary; because the republic justly refused to ratify the convention: and when the documents relating to the subject became known, no blame could attach to the government of the Provinces of La Plata for the refusal.

The convention is dated at Rio, and subscribed by D. Manuel J. Garcia, in behalf of the republic, and by the marquess de Queluz, the viscount de San Leopoldo, and the marquess de Viana, as commissioners for the emperor of Brazil. The first article contains reciprocal guarantees of the integri-



ty of the republic and of the empire ; and a renunciation, on the part of the republic, of all rights over the province of Montevideo. In the second, Pedro engages to bestow particular care on the regulation of the province, and to give the inhabitants a government and laws suited to their particular customs and necessities. Furthermore, the republic stipulates to withdraw her troops from the province forthwith: to place the island of Martin Garcia *in statu quo*, and to make indemnity for alleged acts of piracy committed by the Buenos Ayrean privateers. Both parties agree to apply, separately or jointly, to the king of Great Britain the sovereign under whose mediation the negotiations for peace are conducted, to guaranty the free navigation of the La Plata for fifteen years, thus affording time meanwhile, for placing the relations of the two governments upon a permanently friendly footing, by treaties of commerce and navigation. Such was the convention for the preliminaries of peace, which only fell short of the full demands of the emperor of Brazil, in not embracing indemnity for the expenses of the war.

In subscribing this convention, Garcia wholly overstepped the bounds of his instructions, and by thus exhibiting excessive eagerness to accomplish a peace, placed his government in a very humiliating

position. He was required to proceed to Rio Janeiro, and immediately upon his arrival to open a communication with the British minister, and having obtained by his mediation a proper reception, to enter upon the negotiation of a peace. If the Brazilian government saw fit to treat of peace, he was authorized to conclude a preliminary treaty for the cessation of hostilities, and the establishment of peace between the two countries upon honourable terms, having for its base the restitution of the Banda Oriental, or its erection into a distinct and independent government, in such form as the inhabitants might desire, each party relinquishing all claim for indemnities. If Garcia could not effect a peace upon such conditions, his mission was to terminate so soon as he should arrive at the conclusion that this was impracticable.

Of course, the Argentine government were perfectly justified in rejecting the convention as wholly unauthorized by the terms of Garcia's commission. Congress fully approved of the president's refusing to ratify the treaty ; and by an official note of June 28th, expressed their disposition to co-operate cordially with him in the prosecution of the war, if peace could be obtained on no better terms. Garcia had, in fact, gone counter to his instructions in the most material point. The treaty

produced a general outcry in Buenos Ayres, where Garcia was stigmatized as having subscribed, to terms ignominious in themselves, and offensive to the essential rights of the nation. It was giving up the whole object of the war. So far as Montevideo was concerned, the convention surrendered the question at issue as fully as it could have done, if dictated by Pedro, after a complete victory over the forces of the republic; instead of following upon his reverses in Rio Grande. This the feelings of the Buenos Ayreans could not tolerate. However inauspicious the condition of the republic might be, however necessary to its repose the restoration of peace, they could not voluntarily submit to obtain it upon terms so dishonourable, implying little short of total defeat.

Garcia published a defence of his conduct, which admitted that he had violated his instructions, adducing out of Wiquefort two or three obscure instances of other ministers having done the same before him, and resting upon them his justification in this respect. He conceded, however, that such a proceeding in a minister, could be vindicated only in extraordinary cases, where it was exacted by necessity, and was required to preserve the most essential rights of his nation. He further alleged, that such was the present contingency. The essen-

tial object of the mission, he said, was peace, or at least, the immediate cessation of hostilities. The government of the republic considered it as threatened by approaching dissolution, which could be averted only by the conclusion of the war. In his last communication with the president and the ministry, before his departure, they expressed a conviction that peace was the only resource left the republic; that if the war continued, anarchy was inevitable; that if peace could not be obtained, the nation would sink into the last degree of distraction and confusion; and that the republic, having consented that the Banda Oriental should form an independent state separate from the Argentine confederacy, the war would now remain wholly without object. Garcia seems to have inferred from all this, and from his knowledge of the political condition of the republic, that peace was to be made at all events, and that all he had to do was to negotiate for the best terms which Don Pedro could be induced to grant. Hence, on arriving at Rio Janeiro, and discovering that the emperor made the evacuation of the Banda Oriental a *sine qua non* of the convention, Garcia, wholly regardless of his instructions, hastily concluded such a treaty as he could, and such as he ought to have known would never be listened to at Buenos Ayres.

But his justification of his conduct, appears to us very lame and imperfect. If he deemed peace so necessary that it must be obtained at any sacrifice, why did he not have a distinct understanding with his government on the subject? To what purpose should he have instructions, if they were to be totally disregarded by him in the most essential particular of the whole negotiation? The result showed his conduct to have been as ill-judged as it was unauthorized; for it effected nothing but to place him and the republic in an awkward situation; and encouraged Pedro to persevere, by betraying the anxiety of the Buenos Ayreans to make peace.

The rejection of this treaty was among the last acts of Rivadavia's administration. His alleged preference for the central system rendered him unacceptable to the interior provinces, which had already thrown off the authority of the national government, and fallen into a state of anarchy hardly stopping short of civil war. The provinces of Cordova, Rioja, and Santiago del Estero, had separated from the government at Buenos Ayres, and refused to acknowledge any laws emanating from the general congress. How deliberately they proceeded in the matter may be judged from the circumstance that Bustos, the governor of Cordova, addressed a circular to the

foreign diplomatic agents residing at Buenos Ayres, protesting in the name of the insurgent provinces against any treaty which they might make with the government professing to administer the affairs of the Argentine republic. After his ineffectual attempt to conclude an honourable peace, on which he felt persuaded the duration of the government depended, Rivadavia resigned his authority, which he had exercised under too many embarrassments to afford him a fair field for sustaining his political reputation.

Congress elected for his successor, Dr. Vicente Lopez, a distinguished scholar, and a poet of some note, being the author of the favourite national anthem, "Oid, mortales, el grito sagrado." The whole tenor of his general pursuits, the nature of his habits and disposition, and the decided repugnance he had always manifested to taking an active part in politics, would scarcely have warranted the choice, if congress had not conceived that his impartiality respecting the disputes between the provinces would tend to conciliate the good will of the revolted members of the confederacy. Deterred by the extreme difficulty of administering the government in the actual emergency, Dr. Lopez at first declined the honour; but on the renewed application of congress consented to accept the presidency.

and was accordingly inaugurated the 7th of July. He was sworn in the hall of congress, in presence of that body, in the following words: "I, Vicente Lopez, do swear by God our Lord, and upon these holy evangelists, that I will faithfully discharge the office of president, which has been confided to me; that I will protect the holy Catholic Religion; that I will maintain the independence and integrity of the republic; and that I will faithfully observe the constitution which shall be sanctioned by the national congress." In a brief inaugural address, he declared his sole inducement in accepting the presidency, to be the hope of re-establishing the concord of parties; and expressed his determination to retire again to private life, unless he could bring about a co-operation of all the forces of the country.

Indeed, the prospect of the dissolution of the republic was now so imminent, that Lopez found it difficult to organize a suitable cabinet to aid him in the administration of the government. In testimony of his individual patriotism, he appropriated 8000 dollars of his salary towards the expenses of the war. General Alvear, although a meritorious officer, enjoyed less the confidence of the interior provinces than Lavalleja did; and the latter was appointed to the chief command of the national army, as being, besides, more acceptable to

the people of the Banda Oriental, whom he had been the first to aid in the recovery of their lost independence. As the direction of affairs must, in the event of congress being dissolved, devolve upon the legislature of the province of Buenos Ayres, the proper composition of this body became a matter of great importance; and by a decree of the president issued soon after his inauguration, the 22d of July was appointed for the election of forty-seven representatives, according to the usages practised before the dissolution of the provincial junta. In the present state of things, also, it was necessary to place the executive government of the province of Buenos Ayres on a respectable footing. The election of governor took place on Sunday, the 12th of August; and D. Manuel Dorrego was almost unanimously chosen to that office. The provincial ministry was composed of D. Manuel Moreno, secretary of state, D. Manuel H. Aguirre, minister of finance, and general Marcos Balcarce, of the military department.

When the provincial government of Buenos Ayres was thus completely organized, the general congress and the provincial national executive prepared for a voluntary dissolution. Involved in war with a foreign nation, occupied with the grave task of agreeing upon a constitution, lamentably deficient in resources, the opinions of men di-

vided concerning the fundamental points of public policy, and foolishly engaging in civil warfare in the midst of all their other difficulties, the provinces of the Rio de la Plata separated from each other, leaving the burden of public affairs to be sustained by Buenos Ayres alone. The law for the dissolution of congress, is in the following words :

The general constituent congress, in consideration of the extraordinary circumstances of the republic, and in conformity with the spirit and letter of the law of January 23d, 1825, resolves as follows :

ART. 1. The congress commends to the legislature of Buenos Ayres, and its government, until concert can be obtained among all the provinces, the direction of the war and of foreign relations, the satisfaction and payment of the debt, credits, and obligations contracted to meet the national expenses, and the negotiation of the loans decreed by the laws of October 27th, 1825, and July 27th, of the last year, under the considerations and guaranties therein established :

2. The congress and national government are hereby dissolved.

3. The president of congress will make delivery of his records to the president of the provincial junta, by inventory.

4. This law will be communicated to the provincial president of the republic, and to the governors of provinces, to the intent for which it is designed.

Hall of congress, Buenos Ayres, August 18th, 1827.

The representative junta of the province, by a law of August 27th, declared that it did not recognise the anterior sanction of congress ;

but at the same time, charged the governor with the direction of the national war, and of exterior relations. The government of the province necessarily found itself greatly embarrassed to decide what class of relations it ought to enter into with the diplomatic agents of foreign powers residing at Buenos Ayres. Its situation was indeed very peculiar, and exacted the utmost circumspection in the management of public affairs. The other provinces were as much pledged to the public creditor, as Buenos Ayres, and as deeply interested in the war ; but ignorant of the principles of republican government, obstinately refusing to move in that sphere in the political system which belongs to confederated states, they faithlessly abandoned Buenos Ayres, and compelled the national government to become *felo de se*. Orders were immediately issued to the representatives of the republic in foreign countries, communicating intelligence of the dissolution of the government, and of the consequent determination of their functions. Buenos Ayres, on the other hand, devoted herself manfully to the duty imposed upon her, her earliest objects of attention being the reunion of the provinces. With this end in view, the government despatched commissioners into the different provinces to endeavour to effect a reconciliation between them, and to

induce them to co-operate unanimously in bringing the war to an honourable conclusion.

Nor were the efforts of Buenos Ayres unsuccessful. Cordova, the principal province next to Buenos Ayres, had taken the lead among the seceders from the confederacy. When the national government was dissolved, and the authorities of Buenos Ayres applied to Cordova, as province to province, soliciting the co-operation of the latter in prosecuting the war, their application was favourably received. They immediately concluded an arrangement by which Cordova should furnish a new regiment of troops, to be supported by Buenos Ayres, and should furnish other assistance for the common cause. Thus the dissolution of the national government, which had threatened the most disastrous consequences to the whole country, seemed likely to result in the more vigorous prosecution of the war. Buenos Ayres had for some time past contended in a manner single banded with Brazil. Not only had the other provinces refused to furnish their quotas of troops, or subsidies of money, or to obey the orders of the general government, but, having in some instances attacked the national troops, they in fact impeded the operations of Buenos Ayres at every step. This was the very worst state of things. All the seven provinces ought to have

united harmoniously in bending all their forces to the common object of concluding the war; and if they had done so, it is not likely it would have been lengthened out to such a degree. Failing such a union, the next best course was that which Buenos Ayres and Cordova had adopted, of joining their forces in a kind of offensive alliance for effecting what was equally an object of the deepest interest to both; and if the other provinces would follow their example, the happiest issue of affairs might be anticipated.

In fact, the other provinces manifested a like disposition to maintain the inhabitants of the Banda Oriental in their separation from Brazil. Cordova and Buenos Ayres, treating as equal and independent states, made arrangements without delay for reorganizing the republic. They resolved to proceed to appoint deputies for a convention to be assembled at Santa Fe or San Lorenzo; the deputies being instructed to appoint a national executive for the purposes of peace and war and foreign relations in general; to prescribe the mode of election and the composition of a constitutional congress, to be assembled at such time as the convention should appoint; to define with precision the powers and duties of the congress; to determine immediately on a form of government according to the federal sys-

tem; and to make the requisite provision for the security of the country in existing circumstances. Much of the success of Buenos Ayres in accomplishing this object is ascribed to the exertions of Dr. Moreno, minister of state and of the interior, whose popularity and weight of character, united with his preference for the federal system, gave him great influence in the interior provinces.

Our accounts of the military movements of the belligerents towards the close of the year 1827, indicate that they were making preparations for another active campaign. In September a convoy of sixty transports and 3000 men left Rio Janeiro for the province of Rio Grande; and general Lavalleja, on the other side, was busily employed in raising recruits and obtaining a supply of horses. Some symptoms of discontent had made their appearance in the Argentine army occasioned by a deficiency in the supply of clothing, but they were quieted without producing any serious consequences, and the besieging troops maintained their lines around Montevideo and Colonia; and repulsed the enemy's forces in a sally made from Colonia. Thus far, indeed, the emperor had uniformly lost ground on the whole; his troops being first driven from all their positions in Entre Rios, and obliged to evacuate the whole of the Banda Oriental, ex-

cepting only two fortified towns, and his empire being in the last campaign subjected to the injury and indignity of the successful invasion of Rio Grande.

And although Buenos Ayres remained, to the close of the year, blockaded by the whole force of the Brazilian navy, yet the emperor has generally been worsted on the sea as well as by land. The whole coast of Brazil, from St. Catherine's to Maranham, was so thickly thronged with hostile privateers, as completely to annihilate the coasting trade, almost blockading the great ports of Rio, Pernambuco, and Bahia. Occasionally, but not often, the Brazilians destroyed an armed brig or a schooner of the Buenos Ayreans; but it was only when the former had every way the advantage over the latter, in wind, weight of metal, and men. In fact, it is the vast naval superiority of Don Pedro, in which consists all his strength, and which alone enables him to maintain the contest. With a few frigates, the Buenos Ayreans might speedily obtain the complete mastery by sea as well as by land. They committed an error in purchasing the frigate Buenos Ayres and corvette Montevideo, of the Chilean government; because the funds would have been ill bestowed if those vessels had even reached the river of Plate; and much precious time was lost in expectation of their arrival. The flag

ship *Buenos Ayres* was formerly the *Maria Isabel*, an old fir-built vessel, presented by the emperor of Russia to the king of Spain. She sailed from Valparaiso with a ship's company of 500 men, whose attempt to sail around Cape Horn in her was deemed perfectly desperate; and being rotten from mast to keel, she is supposed to have foundered at sea. The *Montevideo*, formerly the corvette *Independencia*, returned to Valparaiso, where she was sold for firewood. The Buenos Ayreans must have seen cause to regret that, instead of purchasing vessels hardly fit for hulks, they did not endeavour to obtain serviceable ships in England, or the United States. The latest important operation by sea, was the Brazilian expedition, sent towards Patagonia, against the Buenos Ayrean squadron. The Brazilians despatched from Montevideo a frigate, a brig, and two schooners, for this purpose; and they arrived in safety off the bay of San Blas; but in attempting to enter the bay, two of the vessels grounded, and were abandoned by their crews, thus occasioning the total failure of the expedition.

Pedro returned to Rio, as we have already mentioned, on the 15th of January, and immediately made a change in his ministry, the marquess de Nazareth being appointed minister of justice, the marquess de Macoio of the marine,

the marquess de Queluz of foreign affairs, and charged *ad interim* with the department of finances, the viscount de S. Leopoldo being principal minister of state. During his absence in Rio Grande, the empress died, on the 11th of December, a reputed victim of his attachment for the marchioness of Santos, to whom, also, it is said, the old ministry were sacrificed. The constitutional assembly of the empire met in May, and closed its session in November. Of the emperor's address to the two chambers, only the following paragraph relates to the war:

*"Most worthy representatives  
of the Brazilian nation:*

I open the constitutional assembly with the enthusiasm which has always attended this act, but not with the same satisfaction, as my heart is penetrated with grief, consequent upon the death of my most beloved consort, the empress, who died on the 11th of December last, leaving this world for the habitation of the just—the place appointed by the Most High for those who, like her, have led a life of virtue and religion. This bereavement, so unfortunate for us all, took place while I was in the province of Rio Grande, endeavouring, by all the means which the love of country could suggest, to terminate the war between Brazil and Buenos Ayres, by rousing up the energies of the



brave inhabitants of that province. This war continues, and will continue, until the *Banda Oriental* which is ours, shall be freed from its invaders, and Buenos Ayres shall recognize the independence of Brazil, and of that province which has freely and with one accord, declared themselves part of our empire. I am confident that this assembly will co-operate to promote the objects proposed at their last session, in conformity to the answer to the speech from the throne, presented to me by a deputation from this body."

Having no connected and accurate information of the proceedings of the legislative body, we shall not attempt to give any account of them. At the close of their session, the emperor recommended the appointment of a committee to remain at Rio, invested with authority to confer with the imperial council, relative to any propositions that might be received from the government of La Plata, on the subject of peace, or respecting the boundary line between the two countries. But the prospect of peace held out in this suggestion, was generally conceived to be wholly delusive, the whole object of it being to keep alive the hopes of the people. Whether the Brazilians have any disposition to revolutionize the government, and in imitation of the rest of South America, to introduce republican

forms in the place of monarchy, we have no certain means of judging. Although reports of occasional disturbances in Brazil have reached this country, yet none of them seemed to be of much consequence, or to be levelled against the authority of the house of Braganza. Notwithstanding all the burdens of war to which the people are subjected, they exhibit no symptoms of general insurrection. The condition of Brazil, tranquil under the sway of one, who, acting in all the forms of a constitutional prince, is nevertheless virtually possessed of absolute power, stands apparently in strong contrast with the disorderly state of the surrounding republics, especially when we consider that the public requisitions press much more lightly upon the people in the latter than in the former. It is not true, that the Brazilians are happier, or better governed, than the Colombians, or Buenos Ayreans. Doubtless the fact is far otherwise. But a republican government, especially one newly instituted, or imperfectly organized, is, from the nature of things, more liable to be agitated by the change of popular feeling, than a despotism, whose march is usually uninterrupted and tranquil in proportion as the servitude of the people is complete.

Next to the war itself, no event incidentally connected with it, has

excited more sensation at Rio de Janeiro, than the departure of Mr. Condé Raguet, the chargé des affaires of the United States in Brazil. This gentleman had frequently made ineffectual remonstrances against the violence of the Brazilian cruisers, and civil authorities. During the progress of a maritime war, the commerce of neutral nations is always liable to occasional vexation and interruption. The emperor of Brazil having undertaken to establish and enforce a paper blockade of the harbours of Buenos Ayres, Mr. Raguet was necessarily involved in frequent correspondence with the Brazilian ministry, on the subject of captures and detentions, made either in violation of undoubted principles of the law of nations, or at least in violation of those principles of neutral right, which the United States have in all past wars ardently maintained. But Mr. Raguet soon found that his representations were frequently disregarded or evaded, and he himself not treated with the deference due to his official situation; and of course, his connexion with the Brazilian government led to a constant succession of little collisions, each adding to the unpleasant feelings which the preceding ones had engendered.

Numerous instances occurred of well founded complaint, on the part of citizens of the United

States, urged by Mr. Raguet, where the court of Brazil manifested no disposition to render satisfaction to the injured party. Indignant, at length, at the uncourteous conduct of the Brazilian government in the negotiations occasioned by the forcible seizure and illegal detention of the brig Spark, of New-York, Mr. Raguet demanded his passports, in March, and was suffered by the emperor to depart for the United States. Probably Pedro did not believe that Mr. Raguet would persevere in his purpose of quitting Rio; thinking he merely assumed a threatening attitude, for the purpose of intimidation, and of thus producing an instant settlement of the business. Mr. Raguet, however, left Rio in April; and a few days in anticipation of his departure, Pedro despatched a special messenger to Mr. Rebello, the Brazilian minister in the United States, in order to give a suitable account of the matter to the government of the latter, so as to prevent the breach from becoming irreparable. Mr. Oliveira, the bearer of the despatches, reached Washington before Mr. Raguet; and in consequence of the representations made by Mr. Rebello, the president, relying upon the emperor's assurance, that on the arrival of another minister at Rio de Janeiro, a full and adequate indemnity would be promptly made for any injuries which had been com-

mitted on the persons or property of citizens of the United States, consented to appoint a successor to Mr. Raguet. Pedro thus narrowly escaped drawing upon himself the resentment of the United States, at a time, when a war with this country must very speedily have resulted in his total ruin.

Of events in PARAGUAY, and of the proceedings of its singular rulers, during the last years, no authentic information has met our notice. Rengger's lately published historical essay, on the revolution in that country, and on the dictatorial government of Francia, contains, it is true, many curious developments concerning the recent political condition of Paraguay. But his account terminates in the year 1825, so far as it is founded upon his own personal knowledge. Nothing is correctly known of the actual state of affairs, except that the same system, which has hitherto distinguished Francia's govern-

ment, of interdicting communication between Paraguay and the neighbouring provinces, still remains in full vigour. It now appears, that the power which he attained through artifice and treachery, is maintained by the unrelenting policy of sheer military despotism. It further appears, that the statement which has been generally circulated, and generally believed, and which we mentioned in the preceding volume, that Francia had resigned in favour of a certain marquis de Guarany, was the fabrication of a Spanish adventurer, assuming that name, who appeared in Madrid, pretending to be the envoy of the dictator, and invented the story for some private ends of a questionable character. It is probable, therefore, that Francia continues to rule over the citizens of Assumption with a rod of iron, and still plays the petty tyrant in the wilds of Paraguay.

## CHAPTER XIV.

*Great Britain.—New Parliament—King's Speech—Indemnity to Ministers—Joint Stock Companies—Aid to Portugal—Death of the Duke of York—Parliament re-assembles—Mr. Peel's Bills for amending Criminal Laws—Catholic Question—Amendment of the Corn Laws—Sickness of Lord Liverpool—Mr. Canning appointed Premier—Resignation of six Cabinet Ministers—New Appointments—Popularity of Mr. Canning—The Cabinet Organized—Parliament in May—Debates in the House of Commons on the Ministry—And in the House of Lords—Mr. Canning's Situation—Coalition with the Whigs—Mr. Canning's Budget—Bill for amending the Corn Laws—Disfranchisement of Penryn—Parliament Prorogued—Treaty for the Settlement of Greece—Death of Mr. Canning—His Character—Lord Goderich's Ministry—Conclusion.*

We resume the history of GREAT BRITAIN, at the period when the newly elected parliament assembled the first time for the despatch of business, on the 14th day of November, 1826. It was summoned to meet at this early period, in order to obtain an act of indemnity for the ministers, who, alarmed by the prospect of a deficiency in the crops, had authorized the importation of certain kinds of grain, without waiting until it rose to the quarterly average price, when the importation could be legally permitted. On the appointed day, about one hundred members of the new house of commons, appeared

at the bar of the house of lords, and received the direction of the Lord Chancellor, as one of the royal commissioners, that they should proceed forthwith to the election of a speaker. The commons accordingly repaired to their own house, and unanimously re-elected to the chair Mr. Manners Sutton, the speaker of the house in the preceding parliament. The next day, the speaker being presented to the royal commissioners, was approved in the name of the king; and craving it in the customary form, received assurance of the ancient rights and privileges of the English commons. A week was occupied

in swearing in the members ; and it was not until the 21st, that the king proceeded to the house of peers, and opened the new parliament in person with a speech from the throne, which will be found among the public documents.

Addresses in answer to the speech were carried in both houses, the opposition adopting the occasion, as usual, to criticize the expressions of the speech itself, and to condemn the policy and intentions of the ministry as unfolded by it. Nothing of any consequence took place until the 24th of November, when the house having resolved itself into committee, to take into consideration the corn acts ; Mr. Huskisson explained the circumstances which produced the order in council permitting the importation of grain. During the month of August and early in September, the prospect of a failure in the crops of oats, beans, and peas, had been most alarming. The accounts received at that time respecting potatoes, had also excited the most serious apprehensions. Nothing, indeed, but the rains which followed, could have preserved Ireland from the calamity of a famine. The appearance of the harvest abroad too, was unpromising. In these difficult circumstances, Mr. Huskisson said, the minister who should have hesitated to advise the admission of foreign grain, would have deserved

neither the favour of the monarch, nor that fair and liberal confidence, which is reposed in the servants of the crown, while parliament is not sitting. No wise and patriotic minister could for an instant hesitate to choose between a breach of the law on the one hand, or the risk, nay, the certainty, of famine on the other. He entered at some length into an exposition of the circumstances connected with the orders, and its effects, and concluded with moving two resolutions, one declaratory of the opinion of the committee, that the parties advising the order in council, and acting under the same, should be indemnified ; and the other recommending that the admission of foreign grain be permitted, on payment of the duties specified in the orders. The proposed resolutions experienced no serious opposition from any quarter ; and a bill introduced in conformity with them passed both houses, without any particular notice.

Of the few other topics discussed at this session, previous to the consideration of the affairs of Portugal, the only important one related to the joint stock companies, which had so seriously affected the monied interest of the kingdom. On the 23d of November, the house being about to resolve itself into a committee of supply, Mr. Brogden, who had been chairman of that committee for many years, declin-

ed the honour of a re-election at present, in consequence of his character having been publicly assailed, on account of certain transactions of the directors of a company formed for purchasing and working the iron mines of Arigna. The persons who originated the speculation, and who obtained the direction of it, had contracted to pay £10,000 for the mines, and charged them to the share-holders as having cost £25,000, thus making a clear gain of £15,000, which they divided among themselves and their dependants. Mr. Brogden had suffered his name to be used as one of the directors; and of course, became indirectly implicated in these nefarious transactions. In the debates upon the address, alderman Walthman took occasion to refer to Mr. Brogden's connexion with these frauds, and expressed a design of opposing his re-election to the chair of the committee, until the affair was explained to the public satisfaction. Mr. Brogden stated at the time, that in fact he never had any actual participation in the concerns of the company, being nominally only one of the directors, and averred his total ignorance of the improper proceedings; in confirmation of which assertions, he referred to the report of a committee of the injured share-holders, who not only fully acquitted him, but declared that he had conducted throughout with

strict honour and integrity. Their opinion had afterwards been ratified, by four or five general meetings of the share-holders. But having been assailed by calumnies and aspersions the most unjustifiable and unfounded, and having his conduct even called in question in the house, he felt it his duty to demand an investigation; and until that was over, he would not offer himself to the house as a candidate for the committee's chair.

Alderman Walthman now testified no great readiness to propose the inquiry, which he had threatened. Members complaining of this procedure as unfair, the alderman at last brought forward a motion on the 5th of December, "that a select committee be appointed to inquire into the origin, the management, and the present state of the joint stock companies, formed during the years 1824, 1825, and 1826; and to report on the same, together with any special matter touching any member of the house." Mr. Brogden himself seconded the motion. Mr. Canning, however, objected to the extent of the proposed inquiry, which would have the effect of destroying the very object of the investigation. He therefore moved an amendment, limiting the committee specially to the management of the Arigna Mining Company. Mr. Huskisson also took part in the debate, for the purpose of vindicating joint stock compa-

nies, from the unmeasured condemnation pronounced against them by alderman Waithman. Mr. Huskisson said, that on all proper occasions he had been ready to express his disapprobation of the bubbles of the last two years, ephemeral schemes fraught with fraud and delusion in many instances, and in others with obvious risk and hazard. But it ought to be the policy of the law, he maintained, to encourage joint stock companies; it was a mischievous error to attempt to dissuade persons from engaging in them, or to take away their character; and when embarked in properly and fairly, they were beneficial to the public interests and fraught with great public advantages. So far was it from being true, that joining, carried on by joint stock companies was a thing of recedentate, that there had not been a mine worked in the country, time out of mind, except by means of joint stock companies; and without the formation of such companies those mines would not have been explored. Many of the great works in England, which distinguished it from other countries, advanced its commerce, and increased its general wealth, were undertaken by joint stock companies, and successfully managed, so far as the public interest was concerned. A greater illusion, he inferred, could not exist, than to cry down joint stock companies of every description, as positive

and public evils. This debate resulted, as we might suppose, in the adoption of Mr. Canning's amendment in place of the original motion.

But the most important business of the session, indeed the only important one, was the king's message respecting Portugal. The desire of the minister to obtain indemnity for violating the corn laws, appeared hardly adequate cause for specially assembling parliament previous to Christmas; and the session was passing off, having afforded little to interest the public, when, upon the 11th of December, at the very eve of adjournment, to the astonishment of the people at large, Mr. Canning, in the house of commons, presented the following message, one of the like tenor being at the same time, presented in the house of lords by earl Bathurst:

"His majesty acquaints the house of commons, that his majesty has received an earnest application from the princess regent of Portugal, claiming, in virtue of the ancient obligations of alliance and amity subsisting between his majesty and the crown of Portugal, his majesty's aid against a hostile aggression from Spain.

"His majesty has exerted himself for some time past, in conjunction with his majesty's ally, the king of France, to prevent such an aggression: and repeated assurances have been given by the court of Madrid, of the determination of his

catholic majesty, neither to commit, nor allow to be committed, from his catholic majesty's territory, any aggression against Portugal.

"But his majesty has learnt, with deep concern, that, notwithstanding these assurances, hostile inroads into the territory of Portugal have been concerted in Spain, and have been executed under the eyes of Spanish authorities by Portuguese regiments, which had deserted into Spain, and which the Spanish government had repeatedly and solemnly engaged to disarm and to disperse.

"His majesty leaves no effort unexhausted to awaken the Spanish government to the dangerous consequences of this apparent compliance.

"His majesty makes this communication to the house of commons, with the full and entire confidence that his majesty's faithful commons will afford his majesty their cordial concurrence and support in maintaining the faith of treaties, and in securing against foreign hostility the safety and independence of the kingdom of Portugal, the oldest ally of Great Britain."

"G. R."

At Mr. Canning's suggestion, the consideration of the subject was deferred to the next day, in order to afford members opportunity for reflection upon the contents of a message as important as

it was unexpected. Upon the 12th, Mr. Canning made an elaborate speech, detailing the nature of the various treaties between Great Britain and Portugal, and showing that the *casus Fuderis* had arrived, in which it was the bounden duty of the former, as the faithful ally of the latter, to step forth in her defence against hostile invasion. He concluded in the following words, which are too remarkable for their tone of self-confidence and assumption, to be presented in a more abridged form :

"I sat out by saying, that there were many reasons which induced me to think, that nothing short of a point of national honour could make desirable any approximation to the danger of war—but let me be distinctly understood as not dreading war in a good cause ; and I trust that in no other will it ever be the lot of this country to engage ; that I dread war from a distrust of our powers and of our resources to meet it—No : I dread it upon far other grounds. I dread it, because I am conscious of the tremendous power which this country possesses of pushing any war in which she may now be engaged, to consequences, at the bare contemplation of which I shudder. It will be recollected, that when, some years ago, I took the liberty of advertizing to a topic of this nature, when it was referred to in this house, with respect to the position



of this country at the present time, I then stated that our position was not merely one of neutrality between contending nations, but between contending principles and opinions ; that it was a position of neutrality which alone preserved the balance of power, the maintenance of which I believed necessary to the safety and welfare of Europe. Nearly four years, or rather three years and a half, of experience, have confirmed, and not altered, the opinion I then declared ; and I still fear, that the next war in Europe, if it should spread beyond the narrow compass of Portugal and Spain, will be a war of the most tremendous nature—because it will be a war of conflicting opinions ; and I know that if the interests and the honour of this country should oblige us to enter into it, although we might enter it, as I trust we shall always do, with a firm desire to mitigate, rather than to exasperate ; to contend with arms and not with opinions ; yet I know that this country could not avoid seeing ranked under her banners all the restless, and all the dissatisfied, whether with cause or without cause, of every nation with which she might be placed at variance. I say, Sir, the consciousness of this fact ; the knowledge that there is in this country such a tremendous power, induces me to feel as I do feel. But it is one thing ‘ to have a giant’s

strength,’ and another thing to ‘ use it like a giant.’ The consciousness that we have this power, keeps us safe. Our business is not to seek out opportunities for displaying it, but to keep it, so that it may be hereafter shown that we know its proper use ; and to shrink from converting the umpire into the oppressor :

—*Celsa sedet Æolus arce,  
Sceptra tenens : mollitq ; animos et tem-  
perat iras.  
Ni faciat, maria ac terras cælumq ; pro-  
fundum  
Quippe ferant rapidi, secum, verrantq ;  
per auras.*

Sir, the consequences of the letting loose of those passions which are all chained up, may be such as would lead to a scene of desolation, such as no one can, for a moment, contemplate without horror, and such as I could never lie easy upon my couch, if I had the consciousness of having, by one hour, precipitated it. This, then, is the reason, a reason the reverse of fear, a reason the contrary of disability, why I dread the recurrence of a war. That this reason may be felt by those who are acting on opposite principles, before the time for using our power shall arrive, I would bear much, and I would forbear long ; I would almost put up with any thing that did not touch our national faith and national honour, rather than let slip the furies of war, the leash of

which is in our hands, while we know not whom they may reach, and doubt where the devastation may end. Such is the love of peace which the British government acknowledges, and such the duties of peace which the circumstances of the world inculcate. In obedience to this conviction, and with the hope of avoiding extremities, I will push no farther the topics of this part of the address. Let us defend Portugal, whoever may be the assailants, because it is a work of duty; and let us end where that duty ends. We go to Portugal, not to rule, not to dictate, not to prescribe laws; we go but to plant there the standard of England, that there foreign dominion shall not come."

Mr. Canning then moved an address in behalf of the commons, thanking the king for his gracious message concerning Portugal, and pledging themselves to concur in such measures, and to furnish all such supplies, as might be necessary for securing, against foreign hostility, the safety and independence of the oldest ally of Great Britain. A short debate ensued, in which some of the leading opposition members expressed the warmest approbation of the conduct of the ministry; and the address was voted with extraordinary unanimity, only three or four members signifying their dissent. And in the house of lords, a similar address,

moved by lord Bathurst, was carried without a dissentient voice. No other business was transacted during the session; and the next day both houses adjourned to the 8th of February.

Parliament spoke the unanimous voice of the nation, upon this momentous occasion. For once, all opposition to the views and measures of the government seemed to vanish and give place to sentiments of harmony, of conspiring activity and ardour of manly and dignified feeling. Through the great body of the British people, a consciousness of the continued and wilful of the government and the nation towards the object of the expedition, it was instilled out with unprecedented celerity. An armament commanded by

William Clinton, was equipped in such short space of time, that in thirteen days after Mr. Canning pronounced his speech, a detachment of the auxiliary army arrived in the Tagus. But the simple rumor of the approach of British troops proved sufficient to accomplish the purpose for which they were despatched; and they had little opportunity for gathering fresh laurels amid the scenes of their former victories, as we shall more fully relate, in explaining the present condition of Portugal.

Among the few political incidents which occurred after this time, and previous to the next meeting of parliament, the death

of the duke of York is worthy of note. He died on the fifth of January, 1827, in the 64th year of his age. By his decease, the duke of Clarence became presumptive heir to the throne; and in the event of the latter's dying before the reigning king, the daughter of the late duke of Kent, aged eight years, will stand in that relation to the crown. The friends of religious liberty, who remembered the duke of York's strange asseveration, in the nature of an oath, that he would never, in whatever capacity he might be called to act, make any concession to the catholics, very naturally regarded the probable contingency of a long minority, and a female at the head of the empire, as being auspicious to the ultimate attainment of their just political rights: more so, at least, than the rule of a prince fixed in his prejudices, and pledged to the cause of intolerance. The appointment which he held, of commander in chief of the army, was very appropriately bestowed upon the duke of Wellington, who had so long been its most distinguished ornament, and who could appreciate, from personal knowledge, the merits of a large proportion of the officers.

Parliament reassembled on the 8th of February, on which day, in the house of lords, the earl of Liverpool declared the intention of the ministry to bring forward the

question of the corn laws, in order to propose a modification of the existing statutes on that subject. On the 9th, sir Francis Burdett gave notice, in the house of commons, that, on a day assigned, he should submit a motion for the relief of the Roman catholics. These two objects being thus publicly indicated as the prominent subjects of consideration during the session, immediately engaged the attention of the public in general, and more especially of the classes directly interested in the approaching discussions. Meanwhile, however, the sudden illness of the earl of Liverpool, the responsible head of the ministry, which took place on the 17th of February, gave a new direction to the feelings of the nation, and led, in its consequences, to the most interesting events of the year. His malady being of such a nature, as to deprive him of his reason for a time, it became doubtful whether he would ever be capable of resuming the direction of the public affairs, or even of transacting business of any kind. Speculation immediately busied itself, therefore, in conjecturing who would succeed him, and what would be the composition of the new ministry, in case the earl of Liverpool should be compelled, by the state of his health, to resign his appointments. His prudence, wisdom, moderation, experience of affairs, and weight of character, had, it was well known

served to hold in union a cabinet, whose members differed upon some fundamental principles of public policy.

Mr. Peel obtained leave, on the 22d of February, to bring in bills for the consolidation and amendment of the laws respecting the crime of theft, and the crime of malicious injury to property. He said, that having, in the course of the last session, entered so fully into the details of the proposed consolidation, he deemed it unnecessary to do any more at present, than briefly refer to them, although he was now addressing a new parliament. His purpose was, to render the law as plain and intelligible as possible; that where all were bound to know that law, the knowledge of its provisions might be within their reach; and that with this view, its enactments should be couched in terms clear, definite, and precise, so far as such an object could be attained. He did not propose to introduce any alteration in the principles of the law as it existed. He did not wish, or intend to make any rash experiments, in this respect; but only to combine specific enactments referable to one general head, to remove contradictions, to curtail redundancies of language, preserving at the same time all those terms, the meaning and value of which had been ascertained by judicial decisions; in short, to free the laws

from the rust of time, and the impurities of careless legislation, by consolidating them with reference to the actual state of society in the kingdom. Mr. Peel appears to have been cordially seconded in his laudable plan for improving the criminal laws by the great body of the members, exception being taken less to the changes he proposed, than to his omitting to introduce improvements in the principles of penal jurisprudence.

Sir Francis Burdett again brought forward, this session, his motion to relieve the Roman Catholics from the civil disabilities under which they laboured, in order to test the feelings of the new house of commons. The question was taken up in the house on the 5th of March, and the discussion ended on the 7th: presenting a signal example of the expeditious despatch of business, in comparison with the protracted debates which so constantly occur in the congress of the United States. The ministry was on this occasion, as at previous times, divided upon the subject; and the question was discussed and decided at least without any direct interference on the part of the government, each ministerial member acting according to his individual views of the expediency or inexpediency of emancipation. The speech of sir John Copley, the master of the rolls, against removing the civil incapacity attached to Ro-

man Catholics, and the speeches of sir Francis Burdett, Mr. Plunkett, Mr. Brougham, and Mr. Canning, in favour, were distinguished for eloquence of language and acuteness of reasoning; and to any impartial observer, it must be manifest that all the weight of the argument was on the latter side. Nevertheless, the friends of emancipation were greatly disappointed on taking the question, to find themselves in a minority; only 272 members voting for sir Francis Burdett's motion, and 276 against it. In Ireland, very intense anxiety concerning the result was universally felt. Crowds surrounded the mail on its arrival in Dublin, bringing the unfavourable news; and nothing could exceed the gloom and disappointment with which it was received by the oppressed Catholics.

In the house of commons, on the 1st of March, in committee, Mr. Canning introduced his long expected proposals for regulating the corn trade. His resolutions were founded upon mixed principles of partial free trade, and partial exclusion; and, as not unfrequently happens with intermediate measures, gave entire satisfaction neither to the mercantile and manufacturing interest, who desired a more liberal system, nor to the agricultural interest, who demanded complete protection against the importation of foreign grain. The

resolutions went to increase the duty, as the price of wheat and other grain decreased; and in like manner, to decrease the duty, as the price advanced. When the price of wheat should be 60s. in the home market, the duty was to be 20s. per quarter, to be increased 2s. per quarter, for every shilling under 60s.; and to decrease 2s. per quarter, for every shilling above 60s., till it reached 70s., when the duty should be only 1s. per quarter. A similar scale was proposed for barley, rye, oats, peas, beans, and other articles of the kind. After the plan had been explained by Mr. Canning, and the operation of it defended, a short discussion took place, and the further consideration of the whole suspended; and on the 8th, when the debate was resumed.

Mature examination of the plan appears to have rendered it more generally acceptable than it was considered at first; a great majority of the house regarding it as liberal, without being chargeable with speculative wildness; and affording domestic agriculture all that fair protection in the home market, which the necessities of trade, and of the labouring population, would permit. A motion offered by Mr. Whitmore, to make 50s. the regulating price, instead of 60s., and, at that price to enact a duty of 20s. per quarter, was rejected, by a large majority of 335 to 50. In

fact, Mr. Canning's resolutions respecting wheat finally passed without a division; and the feelings of the house were thus ascertained with sufficient precision. It was intended, so soon as all the resolutions should be passed, to bring in a bill founded upon them, when a more decided stand would probably be taken by the enemies of the measure. Without following the bill in all its stages through the house of commons, it will suffice to say, that it ultimately passed this branch of parliament, on the 12th of April, after having undergone some few modifications, which did not alter its principle.

But ere the corn laws were finally disposed of, great curiosity and some anxiety was manifested relative to the state of the ministry, and the appointment of a successor to lord Liverpool. It was necessary to consider the late administration as in fact extinct. There remained not the slightest chance of the restoration of Lord Liverpool, to such a degree of health, as the high and responsible duties of the head of the ministry demanded. No person, acquainted with his situation, could any longer entertain the least expectation that he would ever return to the exercise of his public functions. These feelings were at length pressed upon the ministers with so much earnestness, that they found it

necessary to give some explanation of their views. On the 30th of March, the order of the day for bringing up the report of the committee of supply being read in the house of Commons, Mr. Tierney opposed the motion, upon the ground, among other things, of the unseated state of the government, and the necessity for immediately proceeding to the formation of a real and effective administration. Mr. Canning, in reply, entered into the reasons of the apparent delay to meet the wishes of the nation in this respect. He said that he and his colleagues in the ministry, who had enjoyed a near view of the great virtues, undoubted talents, and extensive acquirements of the earl of Liverpool, and who in addition were bound to him by the ties of time and long continued friendship, naturally felt extreme reluctance to believe, during the earlier part of his illness, that all hopes of his recovery had expired. If we have erred, he said, it has been pardonably,—if we have sinned, it was on the right side:—for I can imagine nothing more painful to my noble friend, more disgraceful to us, than lord Liverpool's awakening from his trance, and finding that his place has been made the object of precipitate haste and intemperate ambition. But occasion for the just and honourable delicacy had already ceased to exist. The king had

caused a communication to be made to the family of the earl of Liverpool, stating that the time had now arrived when it became necessary to fill up the vacancy produced in the cabinet by the calamity which had befallen the prime minister. Happily, lord Liverpool possessed sufficient consciousness, on the arrival of the communication, to understand its nature, and to appreciate the fact, that his feelings had been equally respected by his sovereign, and his colleagues. Mr. Canning concluded, by giving an explicit assurance that a new administration would be constituted forthwith; and on the faith of this assurance, Mr. Tierney withdrew his opposition to the passing of the supplies.

Indeed, so soon as the recovery of lord Liverpool had become hopeless, the voice of the nation pronounced, who should be the successor of the retired minister, just as certainly, as on occasion of the death of Lord Londonderry. No second man divided, for a moment, the choice of the people. Mr. Canning had with him the wishes of his country, gained by no sinister acts, bought by no family influence or aristocratic connexions, but spontaneously bestowed upon the most highly gifted statesman, and the most eloquent parliamentary debater, in the United Kingdom. And it appears that he equally possessed the confidence

of the king, who, in the course of the subsequent incidents, gave most unequivocal evidence of the firmness of his attachment. On the 13th of April, Mr. Canning was announced as the first lord of the treasury and chief minister, a new writ having been moved for, by Mr. Wynne, the evening previous, preparatory to his re-election to parliament. The information accompanying the motion was received with the loudest and most enthusiastic cheerings, rendered audible, far beyond the immediate precincts of the house. On the same evening, the house adjourned to the 1st of May, in order to afford time for making the necessary arrangements in the ministry. Mr. Canning having received the king's commands to form a new administration, to be constituted, as nearly as possible, of the same character with that, of which lord Liverpool was lately the head, proceeded to the discharge of this delicate duty, with perfect good faith. No sooner did he have the tender of the first place in the ministry, than he immediately signified his acceptance of it, to his colleagues, and solicited their aid and co-operation in conducting the affairs of the country. He professed himself anxious to continue in the precise course of policy pursued by lord Liverpool, making as few changes in the existing cabinet as possible, and leaving the difficult question

of catholic emancipation, as it hitherto had been left, to the free and unpledged conscience of every individual member of the cabinet. If his colleagues had met his advances in the same spirit of cordiality and frankness, with which they were made, Great Britain would have been subjected to no sudden alteration of measures, by reason of lord Liverpool's illness, but would have gained advantages on the contrary, by the transfer of the conduct of affairs to more energetic hands, and to an individual equally favoured with the confidence of the great bulk of the nation. Mr. Canning had every reason to expect that such would have been the actual state of things.

How great, then, must have been his surprise and regret, at the extraordinary conduct of a portion of his late associates in the government. Upon his declaring his acceptance of the office of prime minister, six of his colleagues, the Lord Chancellor, Mr. Peel, the duke of Wellington, lord Melville, the earl of Westmoreland, and lord Bathurst, all of whom, except lord Melville, were the anti-catholic members of the cabinet, immediately sent in their resignation. It was reported at first, that lord Bexley also had resigned; but if he entertained the design of doing so, he repented, and consented to remain in the administration. What ever may have been the powerful

inducements which impelled the retiring ministers to take this hasty step, the sentiment of the nation was almost unanimous in disapprobation of it. All, except Mr. Peel, were openly and loudly charged with acting under the influence of personal dislike and resentment towards Mr. Canning. They were accused of being jealous of the superiority which the first place in the cabinet would give him, while they should have remembered that his unquestionable talents; his long experience in various offices, second only to the highest in the government: his pre-eminence as a parliamentary speaker, and his universal popularity throughout the nation, rendered his appointment, not only proper, but in the circumstances of the case, absolutely necessary to the existence of the administration. No man could have supposed that Mr. Canning would feel, or ought to feel, satisfied with a subordinate station in the new ministry. And if he and his friends were driven into the ranks of the opposition, it was perfectly clear that no government could be formed, which would possess the confidence of parliament or of the nation. It was natural, therefore, to consider the conduct of the retiring ministers as unreasonable and unjustifiable. It was equally natural to suppose, that, in tendering their resignations almost at the same moment, they had concerted the



act with a view to intimidate the king, and oppose, in a most unconstitutional manner, the exercise of his just prerogative.

With respect to the individuals who took part in this extraordinary procedure, Mr. Peel, as we have already hinted, had credit for acting from purer motives than the rest, namely, from apprehension lest the premiership of Mr. Canning would produce those ecclesiastical changes, of which the latter had been the most distinguished champion, and which he himself had as conscientiously and strenuously resisted. Mr. Peel's talents and admitted usefulness as a public man, and his reputation in the country, made his resignation a matter of serious regret. The retirement of the duke of Wellington was also much regretted, because in his own department he was unquestionably without a rival; and there his force of character, high reputation, and consequent authority, would be greatly missed. His close personal intimacy with the king was another circumstance which made it peculiarly undesirable to have the weight of his influence in that quarter thrown into the scale of the opposition. As for lord Bathurst, lord Melville, and lord Westmoreland, their presence or absence was considered as a matter of very little moment to the administration, because they possessed no peculiar qualifications, except long expe-

rience in the routine of office. Lord Eldon's secession, was a decided benefit to the ministry, by freeing it from the burthen of unpopularity which attached to the character of the Lord Chancellor. Lord Eldon's habits of doubt and indecision, were an intolerable impediment to the course of business in the court of chancery, while his general principles as a statesman were hostile to all improvement, and to every measure of liberal tendency, suited to the enlightened spirit of the age.

The resignation of the six seceding ministers, was followed by that of various other persons in subordinate stations, who regarded the elevation of Mr. Canning as injurious to them and their friends, or unfavourable to the interest of the high church and tory party, being induced to apprehend that the emancipation of the catholics would speedily be attempted through his influence. Among these were sir Charles Wetherell, attorney general; Mr. Wallace, master of the mint; several gentlemen employed in the ordnance department, the duke of Montrose, lord chamberlain, the duke of Dorset, master of the horse, and some other members of the king's household. Of the old cabinet, there remained only the earl of Harrowby, lord Sidmouth, Mr. Robinson, Mr. Wynne, Mr. Huskisson, and lord Bexley; and the difficult task

now devolved upon Mr. Canning, of re-constructing the ministry, either by selections from among his private friends, or by having recourse to the members of the opposition, and obtaining a supply of whig talent, to be infused into the exhausted ranks of the old tory party. This duty was commenced without delay, by the appointment of sir John Singleton Copley, master of the rolls, to the seals as lord chancellor, the marquis of Anglesea to be master general of the ordnance, and the duke of Clarence to be lord high admiral, and conduct the affairs of the navy, with the advice of a council, the old board of admiralty being abolished. Thus far, no change of policy could be expected from the new administration; but whether the remaining appointments would be tendered to the whigs, was a question which continued doubtful for a short time, and of course kept the whole nation in a state of suspense.

During this period of uncertainty, Mr. Canning received the strongest marks of the confidence and firmness of the king, who seemed to view the conduct of his ministers, precisely in the same light with the nation at large, as designed to intimidate him, and thus overthrow Mr. Canning. But its effect on the king's mind was exactly the reverse. He was roused by it to a degree of energy and decision,

which the public did not anticipate, and which completely disappointed the seceding members of the cabinet. In truth, it effectually secured the royal favour to Mr. Canning, and gave him unlimited power to remodel the administration upon such principles as might seem to him best adapted to the circumstances of the country. He continued to have the public press and the voice of the nation wholly with him. His elevation afforded a signal example of the force of talent, and of tried services, in attaining distinction; since neither family connexions, borough interest, nor aristocratical support, had raised him to the post of premier; but the independent selection of the crown had preferred him, from confidence in his capacity, experience of his services, and approbation of his past conduct, in various responsible stations. And although the administration to be formed under his auspices, might be deficient in great aristocratical names, and he might not number among his friends some of the wealthy owners of parliamentary seats, still he would be able, like Mr. Pitt, to rest upon the universal support of the people, justly outraged by the species of dictation attempted on the part of lord Eldon and his associates. The course for Mr. Canning to pursue, was, therefore, plain before him. He had only

to constitute the ministry anew, with proper respect for the wishes of the king, and to throw himself with sincerity and confidence upon the public feeling, which could not fail to rally in his defence against a combination of the ultra tories, and in favour of a liberal tory ministry, or even an administration composed in part of the most high minded whigs.

It soon became understood, that Mr. Canning, abandoned and denounced by the ultra tory party, was engaged in negotiating with the marquis of Lansdowne, for the admission of himself and his friends into the administration. Thus far, no appointments had been made among them, to form part of the new cabinet. The duke of Clarence, and the marquis of Anglesea were selected, partly on the ground of being the king's friends; and sir John Copley belonged to the party opposed to catholic emancipation. Mr. Canning was pledged to the king, that this question should not be brought forward as a cabinet measure; and this appears to have been the most powerful obstacle to the entire concurrence of the whigs in supporting his ministry. At length, this impediment was overcome, and the accession of the great body of the whigs was signified on the 28th of April, by the appointment of the duke of Devonshire to the office of lord chamberlain. And previous to the 1st

of May, to which day parliament was adjourned, the ministry was completely formed for the time being, as follows: sir John Copley, lord chancellor, by the title of lord Lyndhurst; the duke of Portland, lord privy seal; Mr. Canning, first lord of the treasury and chancellor of the exchequer; lord Dudley and Ward, secretary for foreign affairs; Mr. Robinson, secretary for the colonies, with a peerage, by the title of viscount of Goderich; Mr. Sturgis Bourne, secretary for the home department; Mr. Huskisson, Mr. Wynne, and the earl of Harrowby, to remain in the offices they held before; Mr. Scarlett, attorney general; and the duke of Leeds, master of the horse. It was understood that some alterations might be made, for the admission of the marquis of Lansdowne into the cabinet; and that several of the prominent whigs would be appointed to subordinate offices; but in the present state of things, the government might be considered as re-organized on the 30th of April, when the king held a council, to transfer the seals of office to the newly appointed ministers.

Such was the condition of the government when parliament re-assembled on the 1st of May; and the conflicting parties had an opportunity, for the first time, of giving public utterance to their respective opinions concerning the new administration. In the brief

view which we shall present, of the debates on this occasion, we begin with the house of commons, where the series of explanations, and of mutual objurcations, commenced. Mr. Canning entered the house at 5 o'clock, having been re-elected member of Seaford without opposition, and took his seat as usual on the treasury benches. On the same side sat sir Francis Burdett, Mr. Tierney, Mr. Brougham, Mr. Calcraft, and others of the whigs, while on the opposition benches were several members heretofore in the habit of occupying the ministerial side of the house. Upon the motion of Mr. Herries, for a new writ to issue for the election of a member for Ashburton, to supply the vacancy occasioned by the appointment of Mr. Bourne to the home department, as successor of Mr. Peel, the latter gentleman rose, and stated the reasons which had induced him to resign his office. He disclaimed all motives of private pique, and repelled the imputations of cabal which had been cast upon him and his associates in retirement. For eighteen years, he said, since his first entrance into public life, he had persevered in a course of steady, but, he trusted, temperate and constitutional resistance to any further concessions to the Roman catholics. He desired to give Mr. Canning full credit for the honesty and sincerity of his principles; but he felt convinced

that Mr. Canning would consider it his duty, if placed at the head of affairs, to promote, if not the immediate, at least the ultimate success of the catholic question. It was wholly out of his power to acquiesce in arrangements, calculated to further the promotion of objects, which he alone of the king's ministers had constantly been active in opposing; and therefore he could not, consistently with his feelings and character, retain his office, when the influence and authority of prime minister were transferred, from the ablest opponent of the catholic claims, into the hands of their ablest advocate.

Sir Francis Burdett next rose in defence of the new ministry, which was then assailed in the harshest language by sir Thomas Lethbridge, and Mr. Dawson, who accused the whigs of being actuated solely by the base desire of office, in forming a coalition with Mr. Canning. This imputation brought up Mr. Brougham, who eloquently defended his party, and himself personally, from the charge of selfish ambition in regard to the new administration. He said, that he and his friends had given it their hearty support, because they approved of the principles which it professed and maintained; but he himself had voluntarily resigned all claims to office, at the present time, and indeed become pledged not to accept it, in order to interpose no ob-

stacle in the way of constituting such a ministry as the good of the country demanded. After Mr. Brougham had given this honourable proof of his disinterestedness and patriotism, Mr. Canning rose, and entered into a most triumphant vindication of the course he had pursued in the formation of the ministry, of which he was the head. He related the circumstances respecting it, which we have already detailed; and as to the catholic question, which had been made the pretext for opposing his administration, he frankly stated, that although he sincerely desired its success, yet he would never make himself a party to any attempt at forcing the king's conscience on that subject, how much soever he might hope from the gradual diffusion of more liberal views in relation to the affairs of Ireland. The applause with which his speech was received, left no doubt on the mind of any unprejudiced persons, as to the sentiments entertained towards him, both in and out of the house, by the great majority of the people.

The house of lords met on the 2d of May, and changes, similar to those described as having taken place in the commons, were observable among the peers. Lord Goderich, Mr. Plunkett, as lord Plunkett, and sir Charles Abbott, chief justice of the king's bench, as lord Tenterden, were introduced,

and each took his oath and seat as a peer. Many of the peers, who had most strenuously opposed the catholic claims, placed themselves on the opposition benches, while the marquis of Lansdowne and lord Holland appeared on the treasury side of the house. Earl Grosvenor having presented a petition in favour of the catholics, alluded to the present state of the government, as being auspicious to their hopes; upon which lord Ellenborough observed, that the present was a fit occasion for those ministers, whose conduct in resigning office had been loudly impeached, to explain their motives. Thereupon lord Eldon rose, and in a speech of some length, but rather inartificially composed, stated that he availed himself of the earliest opportunity to purge himself of the calumnious imputations against the motives of himself and his associates, with which the public press had abounded. He earnestly disclaimed all feelings of private resentment, and all disposition to dictate to the king, or to deter him, by unconstitutional means, from the exercise of his inviolable right to appoint whomsoever he might choose for his prime minister. But the opinions, which he entertained and had uniformly supported upon the catholic question, forbade his continuing in office, under the general direction of a head, who had uniformly been the

zealous and anxious advocate of the catholic claims.\* With respect to the charge of conspiring with the other ministers to overawe the king, he solemnly declared, that the accusation was utterly unfounded, the communications from his friends having been sent without any concert on his part, and some of them being unknown to him, till he read them in the newspapers.

The duke of Wellington followed, and entered into a more minute explanation of his motives, because he conceived that the circumstance of his having retired from the command of the army as well as from the cabinet, required it. For the latter, he considered the relation in which Mr. Canning stood, with respect to the catholic question, to be a complete justification. But he alleged further, that Mr. Canning was not desirous to have him continue in the ministry; and to show this, he produced the correspondence between himself and Mr. Canning at the time, which, in our opinion, gave the duke some colour for the belief. When Mr. Canning first apprized the duke of Wellington of the charge he had received from the king, he did not propose a conference, nor give any explanations, nor refer to any person, as authorized to give them, as he did in respect to others of his colleagues. In reply to this communication,

the duke inquired, who was to be at the head of the new ministry, to which Mr. Canning somewhat laconically answered, that he was to be the person, and intimated that such an inquiry was unnecessary; although in fact, it by no means followed, because Mr. Canning was commissioned to form the ministry, that therefore he was to be prime minister. From these circumstances, the duke of Wellington inferred, that his continuance in the ministry was not very anxiously desired by Mr. Canning, even if it had been consistent with his own sense of duty; and these considerations induced him to retire. It is unnecessary, to repeat particularly the observations of lord Bexley, the earl of Westmoreland, lord Melville, who confirmed the assertions of lord Eldon and the duke of Wellington; or those of lord Goderich and the marquis of Lansdowne, who defended Mr. Canning's conduct, upon the grounds which have been already explained in the preceding pages. Of the other peers who took part in the debate, lord Londonderry was remarkable for the peculiar asperity of language, and rancour of personal feeling, with which he spoke of Mr. Canning.

• It would be tedious to review the debates which continued to occur for some time on the subject of the ministry, and which became exceedingly ardent and personal on

several occasions. In the house of commons, sir Thomas Lethbridge distinguished himself for the intemperate warmth of his language on this subject, far outstripping in violence even Mr. Dawson, and Mr. W. Yates Peel, who certainly went as far as prudence and good sense warranted. But the popularity of Mr. Canning in the house of commons, where every debater of any merit, except the late secretary Peel, was on his side, secured to his ministry the decided co-operation of that branch of the legislature. The landed interest there seemed disposed to unite in opposition to Mr. Canning. But the serious cause of apprehension lay in the house of lords, where a large body of the nobility was arrayed against him, and might greatly embarrass the measures of the government. The marquis of Londonderry repeatedly signalized himself by the harshness and illiberality of his remarks on the administration. On the 4th of May the earl of Winchester gave notice of his intention to move for a committee of the whole on the state of the nation, in order to ascertain the strength and test the principles of the new ministry. Other obvious symptoms of decided opposition, were continually breaking out in the house of lords. The great names among the peers were many of them against Mr. Canning; and

lord Guderich was not quite adequate to the task of withstanding his numerous assailants. In addition to this, all the great whig lords did not so cordially approve of the new ministry as their friends among the commons. Earl Grey, for instance, gave a detailed statement of his reasons for withholding his support from Mr. Canning, whom he did not think entitled to the confidence of the whigs.

True it is that nothing but the great popularity of Mr. Canning in the country,—his being considered in some measure as the champion of liberal principles, in consequence of the stand he had taken upon the catholic question, the South American question, and the Portuguese constitution,—and the almost unanimous voice of the public press in his favour;—nothing short of these things could have promised permanence and stability to his administration. The old tory party considered Mr. Canning an unsafe, indirect, and insincere man: they affirmed, that his real aim had been to destroy lord Liverpool's administration, whereof the main principle was neutrality on the catholic question: and that his ultimate purpose was to bring this forward as a cabinet measure, and harass the king into a relinquishment of his conscientious opinions. They reprehended, also, the boastful tone, which on several occasions he had em-

ployed, in speaking of his instrumentality in the introduction of a liberal system of administration into the affairs of the government. Such were some of the general grounds of which the new opposition assailed Mr. Canning. Most of the whigs had entered, or were about entering, into a coalition with him; but this, like other coalition ministries, subjected each party to the imputation of interested motives. Some of the whigs could not easily forget the past career of Mr. Canning, originally introduced into notice as a writer in the *Anti-jacobin*, and a zealous partisan of Mr. Pitt's, afterwards a subordinate member of lord Castlereagh's ministry, the steady opponent of parliamentary reform, the great advocate of the bill for suspending the act of *habeas corpus*, and for punishing the Manchester rioters; the patron of lavish disbursements; and even at the present moment, in the height of his power, pledged to the king to observe the policy of lord Liverpool's administration, respecting the catholics. All these points of objection in the character of Mr. Canning, could not fail eventually to combine a pretty numerous party of men as members of the new opposition.

While upon this part of our subject, it is proper to mention an important fact, stated in the English newspapers to show the predicament

in which Mr. Canning stood with regard to the catholic question. At a public dinner of the clergy of London, on the 8th of May, when the bishops of London, Chester, and Llandaff were present, the bishop of London addressed the meeting, and gave an account of an interview with the king, to which the archbishop of Canterbury and himself had been summoned. In this interview, the king stated, that he had sent to them as the heads of the metropolitan clergy, in order, through them, to acquaint their respective clergy and the public at large, what his sentiments were respecting further concession to the catholics. He declared that he entertained on this subject the same sentiments which his father did, and which he himself was known to entertain when prince regent. He, professed to have the same view of the coronation oath which his father and the late duke of York had uniformly taken; and expressed a conviction, that nothing could alter or shake his opinions on this momentous question. He further commanded the archbishop of Canterbury, and the bishop of London, to communicate these his sentiments to their respective clergy, in order that no misconception might by any possibility exist as to his views in the late ministerial arrangements. The same prelate made a like statement afterwards in his place in the house



of lords. Whatever expectations, therefore, the Roman catholics and their friends might found upon the mere fact of Mr. Canning's being at the head of the government, it does not appear that, in the circumstances of the case, there was good cause to believe it would enable them to attain their object immediately.

In the course of the month of May, the bitterness of the opposition to Mr. Canning gradually subsided. Mr. Peel informed the house on the 8th, that he should be most happy to continue his exertions for the amendment of the criminal code, and the consolidation of the laws appertaining to penal jurisprudence, if such was the pleasure of the house; and that, so far as depended upon him, the proceedings which he had commenced, should go on precisely the same as if he still administered the home department. Mr. Canning thought it expedient, however, to defer bringing forward the state of the revenue at present, in order to avoid, as much as possible, the discussion of all questions that might agitate the public mind. Indeed, although the gravity of parliament was disturbed by occasional ebullitions of bad temper from sir Thomas Lethbridge, the marquis of Londonderry, and others of the most violent members of the opposition, yet no question was taken to try the strength of parties. Mr.

Canning probably had sufficient occupation in completing the ministerial arrangements, which were not finished entirely until the month of July. On the 16th of May the appointments of the marquis of Lansdowne to a seat in the cabinet without office, of the earl of Carlisle to the situation of first commissioner of woods and forests, and of Mr. Tierney to the office of master of the mint, each with a seat in the cabinet, were announced, it being generally understood, however, that a portion of the arrangements made was merely provisional. Mr. Canning's popularity sustained no diminution during the progress of these efforts for organizing his administration; and undoubtedly he was thus encouraged to proceed with firmness and decision in the execution of the plan upon which he had commenced. When permanently settled, the cabinet consisted of the following members, namely, Mr. Canning, the earl of Harrowby, lord Lyndhurst, the duke of Portland, lord Bexley, viscount Dudley, viscount Goderich, Mr. Huskisson, Mr. Wynne, the marquis of Anglesea, lord Palmerston, the marquis of Lansdowne, the earl of Carlisle, Mr. Tierney, and Mr. Sturgis Bourne. The duke of Portland resigned the office of privy seal, to give place to the earl of Carlisle; the marquis of Lansdowne became secretary of the home department:

and Mr. Sturgis Bodrne was transferred to the post of commissioner of the woods and forests, made vacant by the resignation of the earl of Carlisle. Such was the regular composition of the ministry, during the short time that Mr. Canning remained at the head of the government; it being a coalition ministry as strictly as that of Mr. Fox and lord North, and like that, destined to be of brief duration.

On the 1st of June, Mr. Canning, in the character of chancellor of the exchequer, introduced his budget to the attention of the house of commons. So much mediocrity of talent had sufficed to discharge the duties of this office, since the time of Mr. Pitt, that Mr. Canning's clear and explicit account of the state of the finances could hardly be considered as greatly adding to his fame. Unhappily, the condition of the treasury was far from being so favourable as the country could have wished. He acknowledged, that the close of the year had left a deficiency in the revenue of £2,100,000, which rendered an issue of exchequer bills necessary, to meet the expenses of the government. The friends of the existing ministry alleged in their defence that, the deficit having taken place in the preceding year, it could not be justly chargeable upon Mr. Canning's administration; although he himself, and such of his colleagues

as belonged to lord Liverpool's cabinet, were bound to take their share of the responsibility of having occasioned it. Mr. Canning said the government had resolved to practise no concealment,—to attempt no keeping back on the subject,—but frankly to represent things as they actually stood, and for the future to apply their most zealous efforts to the reduction of the expenditure and the improvement of the revenue.

We pass over other matters of an ordinary character, to come to the discussions in the house of lords, respecting the corn laws. The bill for their alteration was read a second time, at the motion of lord Goderich, on the 25th of May. The second reading was carried, by a vote of 120 to 63, from which the friends of the measure augured favourably of its ultimate fate. Lord Bexley spoke of the bill, as being the last legacy of the earl of Liverpool, who had devoted much of the preceding summer, to the investigation of the subject, and had himself introduced the plan into the cabinet, as one originated by himself. The passage of the bill was urged by lord Goderich, with all the zeal and ability he possessed, as calculated to preserve a medium between high and low prices, and to prevent those sudden changes and unexpected fluctuations in price, which were the fruitful source of

so much misery among the labouring classes. But the bill, digested with so much care, and brought forward by the ministers in obedience to the general wish of the better informed statesmen, unfortunately received an amendment, at the motion of the duke of Wellington, which the ministers deemed fatal to the whole measure. His amendment was, that foreign wheat in bond should not be taken out of the warehouse, unless the home price was 66s. ; and after a great trial of strength, there appeared, on a division, 78 lords in favour of the amendment, and 74 for the original bill, leaving the ministers in a minority.

As the duke of Wellington, when a member of the cabinet, had approved of the measure in its primitive shape, his conduct on this occasion, whether justly or not we do not judge, was open to the imputation of factious motives, and gave rise to very severe animadversions on the part of the ministry and their friends. In consequence of the amendment being carried, viscount Goderich announced in the house of lords, on the 13th of June, that the government had concluded to abandon the corn bill, encumbered, as it now was with a clause which they regarded as practically destroying the principle of the measure. Nothing could exceed the surprise and dissatisfaction, which this unexpected re-

sult produced all over the country: among those persons on whose interest the failure of the bill would operate. Indeed, the bill was uncommonly acceptable to the nation at large, who considered it as a very happy attempt at compromise, and confidently anticipated its passage. Not a few intelligent men thought the ministers acted unadvisedly in withdrawing it, looking upon the duke of Wellington's amendment as by no means fatal to the principle of the measure. If there was room to charge the duke of Wellington with moving the amendment from hostility to Mr. Canning, the precipitate abandonment of the bill itself, left equal room to accuse the ministers of seeking to throw upon the opposition the odium of defeating a popular measure. Mr. Canning afterwards remarked, in relation to this subject, that he could "conceive no degree of faction more inexcusable, more blameable, or more wicked, than that, by which a subject, touching the vital interests of the community, is made the means of political attack." Of course, although Mr. Canning probably intended to aim the remark against the duke of Wellington, still it was equally applicable to himself; because imputations of political dishonesty are as easy to make against one party, in a representative government, as the other. Mr. Canning deeply

felt the defeat, coupled as it was with the knowledge, that the king retained undiminished regard for the duke of Wellington, as a personal friend, and desired his return to the cabinet.

We shall advert particularly to but one other measure of the session, and that is, the bill for the disfranchisement of the borough of Penryn, which passed the commons by a large majority. This place belonged to the class of open boroughs, as they are called, such as do not belong to any private individual, the latter being called close boroughs. A case of gross, inveterate, and incurable bribery and corruption, was clearly made out against the burghers of Penryn. It was admitted, that many other open boroughs were equally corrupt, and had their price in the market. But the burghers of Penryn pursued their trade of bribery with such shameless indecency, such public ~~profligacy~~, that parliament seemed to think it was necessary to punish them, by way of caution to the rest, not to violate public decorum by such gross and open corruption. It is but just to put this construction upon the conduct of parliament in this and the like cases; because, if they heartily disapproved of the notorious system of corruption by which so many members were returned, they would change the system itself, instead of resting content with merely punishing the offenders in those instances where

the parties had not driven their bargain with due circumspection.

The session was now drawing to a close; and during the last days of it, a bill to regulate the warehousing of corn, and another to provide the mode for taking the average price, which had originated in the lower branch, passed the house of lords, and became laws. On the 2d of July, the lord chancellor prorogued both houses of parliament, with a speech from the throne, in which assurances were given, that the government designed a careful revision of the financial state of the country, with a view to every diminution of expenditure which might be found consistent with the necessary commands of the public service, and with the permanent interests, good faith, and honour of the nation. The speech further expressed a trust, that the consideration of the corn laws might be resumed early in the ensuing session, and such an arrangement of this important question adopted, as should satisfy the reasonable wishes, and reconcile the substantial interests, of all classes in the kingdom.

But a few days after the close of the session, viscount Dudley, and the plenipotentiaries of Russia and France, subscribed the treaty of London, of the 6th of July, for the settlement of the affairs of Greece. This justly celebrated convention has already produced the most important consequences: and its ef-

fects are as yet but imperfectly developed. The consideration of it properly belongs to the chapter on Greece, where a full account of it will be found. We need only remark here, that a singular circumstance connected with the treaty may have served to hasten the glorious events in the bay of Navarino, which so soon ensued. We allude to the surreptitious and unauthorized publication of a part of the treaty, which is termed "An additional and secret article." It is, in fact, of greater moment than the main body of the treaty itself; because, while the latter only provides that the three powers should jointly offer their mediation to the Porte, the former stipulates for their interposing by force, to compel a cessation of hostilities in the Mediterranean. It is very possible, that the premature publication of such a league, may have hastened the occurrence of the very contingencies against which it was intended to guard. However this may be, the treaty was certainly a most brilliant act for the short course of Mr. Canning's administration; and strikingly characteristic of the independence and directness his foreign policy. It gave a new impulse to the public affairs of Europe, in a manner not unworthy of the bold politician, who boasted of England as the arbitress of liberal opinions in either hemisphere; and who, in a few years longer, seemed likely to

make good the arrogant assertion, if the recognition of the South American republics, the defence of the Portuguese constitution, and the treaty for the settlement of Greece, afford us adequate means of judging what might be the result of beginnings conceived in the spirit of perfect liberality of sentiment.

But all the high expectations entertained concerning the splendid career of Mr. Canning were destined to be disappointed, by his sudden and most deeply lamented death. Early in August, the public mind was deeply agitated by rumours of his dangerous sickness; and on the 8th, he breathed his last, after an illness as violent and painful, as it was fatal in its rapid course. For several years past, he had been afflicted with maladies indicative of a diseased state of the alimentary canal; a condition of the system, peculiarly liable to be aggravated by severe labour of mind, accompanied with great and continued excitement. His constitution was seriously impaired by these causes, when he was made prime minister; and under the harassing cares and anxieties to which he had since been subject, his ailments went on continually increasing, until they terminated in severe inflammation of the intestines, and consequent death, in the 57th year of his age. The cause of his last illness, was a cold caught in returning from attending the king at Windsor, on

the 30th of July ; but he fell a victim, undoubtedly, to the excessive labors and corroding troubles of his office. With his enfeebled constitution, disordered digestion, and ardent, excitable temperament, his frame could not bear up against the burdens of his situation, harassed by business of the highest and most distracting nature, involved in all the perplexities of governing, and loaded with anxiety to realize expectations, which difficulties of every kind opposed. It is easy to conceive the profound anxiety of the whole community, during the few days preceding his decease, and the shock of grief which it occasioned his numberless friends and admirers, and we might almost say, the whole British people. He was taken sick and died at Chiswick, the seat of the duke of Devonshire; from whence his body was removed to his late residence in Downing-street, to remain there until suitable preparations should be made for his burial. An immense concourse of the nobility and gentry, attended his funeral on the 16th of August, and accompanied his remains to Westminster Abbey : where he was interred among the illustrious dead of England.

His life, and the particulars of his political career, belong to the department of biography. His character, as a politician, in order to be fairly estimated, should be viewed with reference to the fact, that he was emphatically a British

minister, purely and exclusively British ; in his education, feelings, principles, temper, in every thing, indeed, which goes to constitute the peculiarities of a consummate statesman. In condemning some of Mr. Canning's official writings, in which the language of the rhetorician and man of wit occasionally broke in, to relieve the formal stateliness of diplomatic composition, Americans should be careful not to exhibit too much sensitiveness of feeling, lest the censure bestowed upon him should be charged to national prejudice. We freely admit, that all departures from the established style of diplomacy, are extremely hazardous and unsafe, and seldom produce a salutary effect ; and we think Mr. Canning erred, in permitting himself to indulge a tone of ill-timed sarcasm, upon more than one occasion, in his correspondence with ministers of the United States. But this was a blemish in his character, which ought not to blind us to his many and pre-eminent merits. Americans should be slow to depreciate the reputation of a statesman, who, in the maturity of his understanding, and the zenith of his power, was most assailed for his attachment to liberal institutions, and for acts in which that attachment was displayed. Mr. Canning was the first living orator of Great Britain. He was devotedly attached to literature ; and by means of his literary excellence was originally introduced into

public notice. His uniform and consistent support of the claims of the catholics, and the manly independent principles of his foreign policy, sufficiently show that he had caught the spirit of the age, and dared to act in conformity with its dictates.

Immediately after the death of Mr. Canning, lord Goderich received the appointment of first lord of the treasury, and the king's authority to form a new cabinet, or rather to supply the vacancies occasioned by the decease of the late premier. This circumstance proved how much the measures of Mr. Canning met the royal approbation, and formed a triumphant refutation of all the calumnies which had been propagated, concerning the alleged unfavourable terms on which he stood with his sovereign. Lord Goderich was generally esteemed as a sensible well informed statesman, of a moderate and conciliatory spirit; but as possessed of neither the talents, nor the energy of character, which had distinguished his predecessor. Some time elapsed before all the arrangements of the new ministry could be completed; but it was understood to be the fixed desire of the king, not less than the earnest wish of his confidential servants and advisers, to continue the policy of Mr. Canning unchanged, and to perfect the plans which he had conceived and begun. Pending the private discussions attending the remodelling of the cabinet, the

duke of Wellington was reappointed to the command of the army, to the general satisfaction of the nation. On the 4th of September, the ministry of lord Goderich was announced, as being completed. As lord Goderich himself became first lord of the treasury, the colonial department was conferred on Mr. Huskisson, Mr. Grant being appointed president of the board of trade, and Mr. Herries, chancellor of the exchequer; and as these appointments were generally acceptable, the public anticipated a period of calm and repose, auspicious to a vigorous administration of national affairs. It appears, however, that a majority of the old cabinet entertained serious objections to the introduction of Mr. Herries among them; and his instrumentality in producing a change of administration at the close of the year, justifies their apprehensions.

During the autumnal months, the public attention was wholly occupied with the interesting events occurring in Greece; and at home the ministers were tranquilly engaged in the discharge of the ordinary duties of government. No domestic incidents took place, which require to be narrated here; and as the change in the cabinet did not happen until January, we defer giving an account of that, and of the causes which immediately produced it, as belonging to the history of the ensuing year.

## CHAPTER XV.

*France.—Views of France concerning Spain and Portugal—Opening of the Chambers—Montlosier's petition—Law concerning the press—Dissolution of the National Guard—Debate on the Budget—Hyde de Neuville—Censorship of the Press—Maubreuil's Assault on Talleyrand—Burial of M. Manuel—Relations with Spanish America—War with Algiers—Dissolution of the Chamber of Deputies—Elections unfavourable to the Ministry—Massacres of November—Prosperity of France.*

PARTY disputes acquired a new political circles on this occasion. It remained to see, what course the ministry would take, in case the disturbances in Portugal and Spain should, as appeared not unlikely, betray the two latter nations into war.

So sensitive was the state of the public mind, amid all the circumstances of the times, that a visit to Paris, made by Mr. Canning at this period, was the subject of endless speculation. It was in vain for him to allege the desire of recreation or the pursuit of health, as a motive for his journey; the world would not believe it was without some ulterior object of deeper importance. The independence of the Greeks,—that of the Spanish American states,—Spain herself,—and above all the Portuguese constitution,—all

direction among the people of FRANCE, upon the announcement of the Portuguese having obtained a constitution under the guaranty of England. This event, the *ultras* regarded with a mixed feeling of alarm and astonishment. They denounced the Portuguese charter as a firebrand, which already filled the Peninsula with commotion, and might involve all Europe in the horrors of war. England had waged hostilities for twenty years, against the French revolutionists; would she now protect a like party in Portugal? She had protested, at the continental meetings, against interference in the internal affairs of other states; would she now undertake herself to set up a charter in the Peninsula? Such were the questions which agitated the



these were conjectured to be matters of so much consequence, as to persuade Mr. Canning to make them the inducement of a personal interview with M. de Villele.

Such was the condition of public affairs, until the disorders on the Portuguese frontier in November, and the consequent proceedings of the English, became the prominent topics of discussion. Precisely in this emergency the French chambers assembled.

Their session was opened, December twelfth, by a speech from the king. The fact of the invasion of Portugal from Spain by the anti-constitutional party, drew particular attention to two passages of the speech. In one, he said: "Disturbances have recently broken out in a part of the Peninsula. I shall unite my efforts with those of my allies, to put an end to them, and to prevent all their consequences." These words were thought to be an omen of peace. But a contrary inference was drawn from the conclusion of the speech, in which he said: "France, industrious and tranquil, will acquire new greatness; and her success in peace will not shed around her less lustre than would once more her warlike virtues, if honour should again oblige her to display them."

Indeed, the speech seemed to be couched precisely in that ambiguous language, in regard to the great

question of peace or war, which might best correspond with the event. On the one hand, the French ministry had given the English assurances of co-operation in striving to preserve peace. The French minister at Madrid, M. de Moustier, who had countenanced the evasive policy of the Spaniards, in respect to Portugal, was abruptly recalled from Madrid, and had now arrived at Paris. On the other hand, the Jesuits and their congregation, were known to have strong sympathies with the Spanish absolutists, their brethren in opinions. If, in 1823, there was sufficient justification, in point of principle, for the French invasion of Spain, there was, in 1826, quite as much for attacking the Portuguese constitution. M. de Villele, in 1823, had given the same assurances of peace that were now proclaimed; but had been obliged to yield to the intrigues of the *ultra* party. We simply state these facts, to put the reader in possession of the political speculations, thrown out in anticipation of the official acts of the French government.

All suspense, however, was terminated by the subsequent proceedings in the chambers. Warm debates occurred on so much of the answer to the king's speech, as touched on the affairs of Portugal. Mr. Canning's exposition of the policy of the British, was sharply

and justly criticised as boastful, and derogatory to the dignity of France. But the ministers proved themselves firm friends alike to France and to Europe, by avowing, and successfully defending their co-operation with England on this subject. M. de Damas, the minister of foreign affairs, stated in his place, December 29th, that, when the French army entered Spain in 1823, the English demanded and obtained from France, that no hostility should be committed with respect to Portugal, declaring their determination to aid the latter, if attacked. When the late troubles broke out in Portugal, England made a similar declaration to Spain, which was communicated to all the great continental powers; and it was agreed that Spain and Portugal should each be required to observe the strictest neutrality in whatever concerned the other's affairs. In accordance, he continued; with this common consent, all the powers had unceasingly urged upon the Spanish cabinet not to furnish Portugal with any cause of complaint. France herself had not been backward in testifying her extreme displeasure at the contempt of her counsels which the Spanish government exhibited; and had, therefore, withdrawn her minister from Madrid. And the French cabinet were fully determined to advise their king to leave Spain to her own destruction, if

she persisted in subjecting Portugal to the necessity of assuming a hostile attitude.

Such were the views entertained by the government of France, at the termination of the year 1826. After an expression of their designs thus publicly and deliberately made, there could be no doubt of their sincerity, and little apprehension of their being forced into war, contrary to their engagements. In fact, it afterwards appeared, that France and England entered into arrangements, the object of which was to leave the absolutists and the constitutionalists of the Peninsula to their own fate, without the presence of a French army in Spain, or an English one in Portugal, for the protection of either party. France formally recognised the regency and constitutional government of Portugal: as England had done the absolute government of Spain. Previous to the invasion, headed by Silveira, the French intended to withdraw their troops from Spain in April, 1827; but that invasion, and the disturbed state of the entire Peninsula, occasioned a delay of the measure, until actual hostilities between Spain and Portugal were terminated, by means of the intervention of Great Britain.

Without professing, or attempting to recount minutely all the proceedings of the French chambers, we shall briefly refer to such as

are most generally interesting. Among the earliest were the debates in the chamber of peers, on the subject of M. de Montlosier's petition, that the laws against the Jesuits should be put in execution. Count Portalis was reporter on the subject ; and in anticipation of the business, all the ecclesiastical peers in Paris were present. The report concluded by proposing to refer the petition to the president of the council. This disposition of the matter was opposed, with great vehemence, by the Jesuits and their friends. Cardinal de la Tarre, the duke de Fitz-James, and viscount d'Ambray, spoke against the proposition ; while the duke de Choiseul, viscount Laine, and M. de Barante supported it. The debate was concluded by the bishop of Hermopolis on the one side, and baron Pasquier on the other. M. Frayssinous entered into an elaborate vindication of the Jesuits, and urged the chamber to reject the proposition offered by the reporter of the commission, by passing to the order of the day, and thus testifying their disapprobation of M. de Montlosier's petition, which he characterized as an unjust and violent attack upon the ministers of the national religion. Baron Pasquier answered the arguments of the minister of ecclesiastical affairs and public instruction, with great perspicuity and force ; and after he had spoken, the question

being taken, on the motion to pass to the order of the day, and thus reject the report, was negatived, by a majority of 113 to 75 ; and so much of the petition as related to the Jesuits in France, was thereupon referred to the president of the council.

But a popular triumph of far greater consequence was the result of the discussions concerning the liberty of the press, which have so long agitated the French politicians. These discussions arose upon the project of a law relative to the police of the press, presented in the chamber of deputies on the 29th of December, 1826, by the keeper of the seals. It prohibited the publication of any printed composition not periodical, of twenty sheets or under, until five days after it had been deposited for inspection ; and until after ten days, if it consisted of more than twenty sheets. No journal or periodical publication was to be issued, without a previous declaration of the names of the proprietors, their residence, and of some authorized printing office in which it was to be printed ; nor without previous security being given on the part of the proprietors, to conform to the laws. The project further provided a scale of pecuniary penalties for the various forms, in which the laws on the subject might be violated. In the passage of the project through the

chamber of deputies, it encountered more strength on the part of the opposition than the ministry had expected, and not less zeal, but was finally adopted by a vote of 233 to 134 ;—a vote which the Constitutionnel declared would cover France with mourning. The public relied, however, upon the independence and firmness of the chamber of peers, to arrest the progress of a law, which subjugated the press under pretence of regulating it ; and they were not disappointed. Finding a majority of that body likely to be opposed to them, the ministry determined to withdraw the project, which was done by a royal ordinance, dated April 17th. Paris was filled with rejoicings at this victory of liberal opinions. Illuminations, fire-works, and various signs of satisfaction, testified the triumph of the opposition. Among other acts of rejoicing, the students of the schools of law and medicine paraded the streets with flags, uttering shouts of “ Vive le Roi,” until they were dispersed by a troop of the *gend’armerie*.

This event was followed by demonstrations of the popular feeling among the national guards of Paris, which led to the disbandment of that fine corps of troops. It consisted of about 45,000 men, of whom 6000 were cavalry, completely armed and equipped at their own expense, being chiefly young

men between the ages of eighteen and twenty-five. This superb militia was reviewed by the king, on Sunday the 29th of April, in the Champ-de-Mars ; and until near the close of the day, every thing went on to the king’s satisfaction. Finally, about 15,000 or 18,000 of the national guard assembled, and proceeded to the Champ-de-Mars. In order that they might not have the opportunity of joining unanimously in any particular cry, they were kept in a single column, three deep, and were placed precisely in the middle of the great circus formed by the Champ-de-Mars. One extremity of the column was near the military school, and the other extended towards the banks of the Seine. Means were taken to prevent the public from occupying the Champ-de-Mars, and the spectators were compelled to remain on the slope which borders it. In consequence of this arrangement, the national guards were kept from having much communication with each other, and they could scarcely hear the people, or the people them. But at length cries of hatred to the ministry began to be raised among the populace, who felt excited and encouraged by the triumph of the liberal party over the law respecting the police of the press. The cries finally passed to the national guard. Three or four legions uttered it repeatedly ; and some of

those, who, in the presence of the king, had given utterance only to acclamations of loyalty, pronounced loud expressions of blame against the chief minister, M. de Villele, as they passed near his hotel. In consequence of these outrages, the ministry came to the bold resolution of disbanding the guards, in punishment of their insubordination and departure from the rules of strict military discipline. Their dissolution was warmly opposed by the duke de Doudeauville : but was carried by the majority of the ministers, and received the king's approval. The duke de Doudeauville acquired great popularity by his opposition to the measure ; and his subsequent resignation of his place in the department of the royal household. The publication of the ordinance for their disbandment produced the most violent excitement in Paris, and added strength to the already powerful party, which opposed the ministry.

This subject was referred to incidentally in a debate in the chamber of deputies a few days afterwards, when some words dropped by M. de Villele, furnished new fuel to the flame of opposition. In the course of the discussions upon the budget of 1828, M. Lafitte took occasion to say there was no evidence that the ministers would not want any supplementary loans, when they could insult citizens,

who for forty years had borne arms for the maintenance of order. Hereupon, a voice called upon Lafitte to impeach the ministers. He declared his readiness to obey the call, if four other deputies would come forward, and join him in signing and presenting the act of impeachment. Benjamin Constant, Casimir Perrier, and two other deputies, immediately spoke, and expressed their willingness to unite with him in the act. However, no measure was taken upon these declarations, which seem to have been mere expressions of zeal, elicited in the heat of debate ; and Lafitte proceeded with his argument upon the budget. When he had concluded, M. de Villele rose, and, in reference to the threat of impeachment, said, he would have deserved impeachment if he had not counselled the measure of disbanding the national guard. This declaration occasioned violent agitation ; but after silence was restored, M. de Villele repeated, that he should have feared impeachment, if he had not advised the measure ; but should never dread impeachment for a measure necessary for the public interest, and the safety of the country, which was not to be suffered to relapse into anarchy through want of firmness in the advisers of the crown ; and therefore he considered the act as a ground for praise, rather than censure. This decla-

ration of the minister was considered highly important, as being an admission of individual responsibility for the measure; because M. de Villele claimed it as an honour, that he had advised an ordinance, which was unpopular and odious, however necessary it might have been deemed.

Early in the session, some complaint was made of the tardiness of the ministry in bringing forward the budget of the year. This document was at length presented to the chamber of deputies, on the 11th of February. No new tax was proposed as an addition to the burdens of the nation, nor was any alleviation of the public burdens proposed, in consequence of a diminished expenditure. After giving reasons why the state of the finances had not been earlier laid before the chamber, the minister, M. de Villele, proceeded to enumerate the items of the income and expenditure for last year, and followed up his statement with the estimates for the ensuing one. The expenditure of 1825, which had been estimated in the last budget, at 981,500,533 francs, had been definitively settled at 985,805,516 francs. The supplies for 1826 amounted to 983,940,350 francs. The excess of income over this expenditure, was 5,119,365. In stating this fact, the ministers took occasion to congratulate the chamber, that after having, in the

course of the last year, supported the expense of the occupation of Spain, distributed 3,000,000 of francs in bounties to the fisheries, given 10,000,000 francs more for encouraging manufactures by bounties on exportation, and paid 9,200,000 for arrears of services, or for unforeseen charges, the government still found more than 5,000,000 of unappropriated surplus in the treasury, to commence the ways and means of the current year.

During the discussions upon the foreign budget of 1826, M. Hyde de Neuville, formerly French minister in the United States, and afterwards in Portugal, made some remarks, which proved so offensive to the ministers, that they immediately struck his name from the roll of ambassadors, *en disponibilité*. He alleged, what was undeniably true, that M. de Moustier, the French ambassador at Madrid, in the summer of 1826, stood charged with being one of the causes of the Spanish invasion of Portugal, by his connivance in the plans of the absolutists, and his neglect to enforce the pacific wishes of France. He accused M. de Moustier of acting contrary to his instructions, unless he possessed two sets of instructions. M. de Moustier had that day taken his seat as a deputy; and M. Hyde de Neuville called upon him directly for expla-

nation of what had passed in the peninsula. Neither M. de Mous-tier, nor the ministers, however, ventured any reply to this bold appeal, the latter contenting themselves with showing their resentment, in the manner we have indicated.

The dissolution of the national guard, and the act of ministerial revenge against M. Hyde de Neuville, were sufficiently unpopular measures; but they were trifles compared with the rigorous censorship of the press established by royal ordinance of June 24th, levelled at the liberal journals, which occasioned the ministry so much annoyance. This ordinance provided that there should be at Paris, under the department of the interior, an office charged with the first examination of all journals and periodical writings, to be composed of six censors, appointed at the recommendation of the secretary of state for that department; and that no number of a journal or periodical writing should be published without the *visa*, or inspection, of the censors. Similar provisions were made for the departments; the whole to be under the direction of a council of superintendence, to whom reports must be made by the censors at stated intervals. This decree was in its operation fatal to the independence and spirit of the perig-dicial press; and if the active genius of the French had not devised

other means of popular discussion, would have silenced political inquiry most effectually. At first, the censors were prodigal of their professions of moderation and impartiality; but they did not, and perhaps could not, conform to their professions so far as to satisfy the journalists. The opposition journals began by sending political articles, in which strength of reasoning was combined with moderation of language, and all things personally offensive to the ministry, were carefully avoided. These articles, however, were suppressed; but copies were preserved by the authors, to be produced to the chambers, if the ministers should undertake to eulogize the liberality and moderation of the censors. After this, they thought it idle to submit any more political articles for approval; but, in obedience to the suggestion of Chateaubriand, filled their columns with mere news and insignificant paragraphs, in order to deprive the ministers of all ground to argue for the continuance of the censorship, from the licentiousness of the press, or the refractory disposition of its conductors. Sometimes the journals exhibited a very expressive commentary on the new censorship, by leaving whole columns of blank, in the place of articles expunged by the bureau. All these circumstances tended to create a strong current of public opinion against the ministry. The activity

of the liberal party, precluded from a free expression of opinion in the ordinary method, displayed the more zeal in other means of attack, and thus prepared the way for a change of administration.

Meanwhile, some events occurred, which, although not of a nature to relate to the government directly, yet produced much feeling among the people, and therefore deserve to be mentioned. One of these was, a frantic assault upon M. de Talleyrand, made by the marquis de Maubreuil, in revenge of an old injury, whether real or pretended only, does not appear. Maubreuil met the prince on a public occasion, and struck him a violent blow on the face, by which he was felled to the ground, receiving a severe contusion on the back of the head, by means of the fall. Maubreuil immediately announced his name, and surrendered himself to justice. He disclaimed any design to inflict bodily injury on the grand chamberlain, only professing a desire publicly to insult him before the whole court. He stated, as the reason for the assault, that on the first restoration, M. de Talleyrand employed him to assassinate Napoleon, and to recover the crown jewels from the wife of Jerome Bonaparte. As he only succeeded in performing the less criminal part of his commission, by way-laying and robbing the queen of Westphalia, his employer refused to give

him the promised reward, as he said; and when he began to complain of this treatment, his complaints were answered by six months close confinement in a prison. On his trial, the court appeared to pay little regard to this story; thinking probably, that a ruffian, who, by his own account, was a mercenary robber and assassin, was not entitled to much credit as a witness in his own case; and accordingly sentenced him to a fine of 500 francs, to imprisonment for the space of five years, and security for his future good behaviour.

We need not detain our readers by any account of the ceremonies of holy Thursday, when the king washed the feet of young children representing the apostles; or of Assumption day, when the court walked in procession in compliance with a vow of Louis XIII; or of other public observances, by which Charles X. testified his respect for the usages of the church. We pass to the more interesting scene of the obsequies of M. Manuel, formerly deputy for La Vendée, and a celebrated leader of the liberal party. Manuel died on Monday the 20th of August, in the house of his friend M. Lafitte, at Maisons. On the day of Manuel's death, M. Lafitte wrote to the prefect of police, desiring authority to remove his remains to his house in Rue des Martyrs in Paris. Various difficulties were made on



this point, which M. Lafitte soon discovered to arise from unwillingness on the part of the government, to witness demonstrations of popular respect for the deceased, like those exhibited on occasion of the burial of general Foy. Perceiving this, M. Lafitte proposed, that the *cortège* should proceed directly to the cemetery of Pere la Chaise, by the way of the outer bulwarks; which was eagerly assented to by the prefect, who, in giving permission for the removal of the body, prescribed the time and manner, in which the funeral ceremonies should be performed,—requiring, among other things, that the coffin should be carried in a hearse, and not on the shoulders of the people.

Early on the morning of Friday, the funeral procession moved from Maisons; and towards noon arrived at the gates of Roule, where the carriages of a great number of Manuel's friends waited for it. The procession advanced slowly by the outer bulwarks, increased at every step by citizens of all ages and ranks, who came in crowds to meet it, many of the houses and shops along the route being closed as a mark of mourning. The multitude had assembled in vast numbers on the causeway without the barrier; and when the procession penetrated into this crowd, the people surrounded the carriage, lifted out the coffin, and in-

sisted upon carrying it upon their shoulders. Hereupon the gendarmes, who were stationed along the road to preserve order, interposed, drew their sabres, and threatened to stop the procession if the people did not desist from their attempt. At length, a compromise was effected, which prevented bloodshed. The coffin was restored to its place, and the traces of the horses being loosened from the hearse, the crowd proceeded to draw it themselves. The funeral car, drawn slowly, but without confusion, passed on thus until it reached the barrier of Menilmontant. Two immense columns, of more than 20,000 men, lined the high road, between which the car advanced, preceded by the carriages of M. Lafitte and general Lafayette; and an almost equal number of citizens filled the space on the outside of these columns. But upon entering the Boulevard which joins the barrier of Menilmontant, two squadrons of mounted gendarmes were perceived drawn up in order of battle across the road, and flanked by two companies of gendarmes on foot, who had with them another funeral car, drawn by four horses. The police, it seems, learning that the people were drawing the car themselves, determined, with puerile jealousy, and a weak spirit of intermeddling, as unprovoked as it was injudicious, to interfere, and transfer the

to a new hearse, so as to prevent the multitude from thus manifesting their respect for the remains of Manuel.

At first, every thing threatened a collision between the troops, and the unarmed multitude, whose enthusiasm and indignation rendered them reckless of danger. The people resolutely refused to permit the transfer of the coffin; and the count de St. Germain, who commanded the gendarmerie, persisted in requiring it. Finally, M. Lafitte succeeded in making an arrangement, which placed the police in a light supremely ludicrous, and added a sense of ridicule to the feelings of indignation with which their officious interference was regarded. It was agreed that two of the horses should be taken from the new hearse, and harnessed to the old one, and the troops should then give way to the procession, the people still continuing to draw the car to which the horses had been loosely fastened, so as to wear the appearance of being drawn by the latter; and all this with the knowledge and by the consent of the police, who seemed glad to be relieved, by the help of this unworthy quibble, from the responsibility of attacking the citizens. After this the funeral proceeded, without further molestation, to the burial ground of Père la Chaise, where a grave had been prepared for Manuel, near to that of his late friend

and compatriot general Foy. Throngs of spectators covered the cemetery, which resembled a crowded amphitheatre; and when the body was deposited in the ground, general Lafayette delivered a touching and appropriate address to the surrounding multitude, who then peaceably dispersed, satisfied with having bestowed the last tokens of respect on the memory of the best and boldest defenders of popular rights.

During this year, the government of France paid an unwilling tribute to the principles of liberty, by entering into commercial relations with the new states of Spanish America, and thus recognising their actual independence. This result is attributable to the firmness of Mexico and Colombia, in refusing to accede to any of the half-way measures, by which the French sought to obtain all the advantages of trade with the patriots, without doing any act offensive to Spain. Finding such a course impracticable, M. de Villele bent to the necessity of the case, and despatched the proper and regular consular documents to the French private agents in Mexico and South America; consenting, at the same time, to accredit publicly such agents as the new republics might see fit to appoint to reside in France.

Early in the summer, hostilities broke out between France and the dey of Algiers, in consequence of a

controversy between him and the consul, respecting a debt due the Algerines for corn purchased on account of the French government in 1793, beside some other causes of difference. The Algerines having proceeded to capture some French merchantmen, a squadron was despatched to blockade Algiers, and to cruise in the neighbourhood of the straits, for the purpose of protecting the French commerce, and reducing the Algerines to submission. Some collisions occurred between the fleets of the respective governments; and the dispute occasioned very serious inconvenience to the merchants, by compelling them to submit to the expense and delays of convoy. France offered to negotiate with the dey, and made all reasonable offers to obtain peace; but the dey rejected them with contempt, alleging, that he had been unjustly treated in regard to the blockade; that he was insulted by the consular agent, who had, as yet, given him no satisfaction; and that he was able to carry on the war with France, of which he professed to entertain no fears. The controversy remained unsettled at the end of the year.

Our readers will have inferred from the facts already mentioned, that the popularity of M. de Villèle and his cabinet was daily diminishing, and the liberal party gaining ground in the capital of France.

as well as in the departments. Apprehending the continued increase of this popular spirit, the ministry came to the resolution of dissolving the chamber of deputies, three years in anticipation of the time for which the members were chosen, and of proceeding to a new election immediately. The reason of this measure is said to have been, the apprehension of the ministers, lest, if the election was allowed to take place at the expiration of the regular period of three years, the popular party would have gained additional strength, and would be able to return a greater number of opposition members than the chamber now contained. They did not dream that already the popular party were so numerous, that an election at the present time would augment the number of their members in the chamber. Of course, they calculated upon the effect of the election now, as securing to them the present majority in the chamber for the space of seven years to come, the period for which the deputies in the French chamber are elected. Had they been correct in their calculation, they would thus have retained their actual ascendancy in the chamber for seven years, instead of three, which remained as the term of service of the old deputies. A majority of the chamber of peers being opposed, or but coolly attached to the ministers, it was proposed, contemporaneously

with the election of new deputies, to augment the hereditary branch of the legislature by the creation of a hundred new peers. In addition to this, the project was under consideration for calling all the French bishops, eighty in number, up to the chamber of peers, and allowing them to vote by proxy, in imitation of the constitution of the English house of lords. By such means, the ministerial and anti-liberal party expected to obtain a permanent majority in the chamber of peers.

In execution of a part of this plan, an ordinance was published the 6th of November, dissolving the chamber of deputies, and convoking the electoral colleges throughout the kingdom; those of the *arrondissements* to meet on the 17th of November, and those of the departments, partly on the 17th, and partly on the 24th, for the election of new deputies. Another ordinance named the towns in which the colleges should assemble, the presidents and vice presidents, and the number of deputies to be elected. A third ordinance contained the nomination of seventy-six new peers; and a fourth revoked the ordinance of June 24th, which established the censorship of the press. It being the intention to revive the censorship so soon as the elections terminated, it was supposed the journals would profit by their short term of liberty, to attack the government with redoubled

acrimony; in which case their language would probably furnish the partisans of the ministers in the two chambers with arguments in favour of a law for restraining the licentiousness of the press, to be proposed at the next session.

Preparations were now busily made on all hands, for the approaching elections; and in the result the popular party were as much elated by their unexpected triumph, as the ministers were confounded by their total defeat. In Paris, the number of persons who gave in their votes, amounted to 8000, of whom only 1,114, or one seventh part, supported the ministerial candidates. The rest voted for MM. Dupont de l'Eure, Lafayette, Casimir Perrier, Benjamin Constant, De Schonen, Ternaux, Royer Collard, and baron Louis. This signal triumph of the liberal party filled them with exultation and their opponents with dismay. Anticipating from what had taken place in Paris, the result of the elections in the departments, the ministers began to repent of their appeal to the nation, and to exclaim that the flood gates of democracy were again opened. It soon was ascertained, that the electoral colleges of Versailles, of Compiègne, of Pontoise, of Corbeil, had all returned opposition candidates; and that in Rouen, Havre, Orleans, Evreux, Chartres, Amiens, St. Quentin, Dieppe, Beauvais, Pe-

ronne, and Troyes, the provisional bureaux had been changed ; a sure indication, that the return of deputies would be anti-ministerial. Thus, wherever public opinion could be concentrated easily, and openly expressed, and the influence of the government safely resisted, as in the capital and populous towns, the constitutional party were generally successful. If they failed in the rural districts, or in the greater colleges, the victory of the ministers was owing rather to the dexterity of their prefects in managing the electoral urn, than to the popularity of their measures, or the influence of their characters. And the tone of the liberal journals now became so haughty and menacing, in consequence of the success of their friends, that unless the journals were effectually silenced by a censorship, there could be no doubt of a change of ministers.

The elections afforded a striking indication of the state of public opinion, not only in respect to the numbers returned who were against the ministers, but also in the character of the deputies nominated. Several of the liberal candidates, who were violently opposed at the last election, were returned on this occasion by triumphant majorities, such as M. Lafitte and M. Dupont. Among the rest, it is remarkable, that M. Royer-Collard was chosen for six different places. His character, and the political influ-

ence which he has acquired, give a peculiar colouring to the progressive and important change of public sentiment in France. He has none of the common elements of popularity to account for his pre-eminence in reputation among the people. Foy was a soldier of note ; Manuel a demagogue ; La Fayette the ancient friend of Washington, and the hero of other days ; but Royer Collard could boast none of these attractive qualities. Nothing but the growth of masculine meditation among Frenchmen, could have led them to select him as the favourite defender of popular rights, at such a crisis. The repeated election of this high-minded individual, the ancient president of the royal council of the university, carried with it the condemnation of the faction of the Jesuits. La Fayette's election was an act of reparation for the ministerial persecution of the national guard. The election of M. de Schonen, a man of great energy, and a counsellor of the *Cour Royal*, was a tribute of respect paid to the manly firmness of the magistracy, in resisting the ministerial prosecutions. Firmin-Didot, the celebrated printer, Bertin-Deraux, proprietor of the *Journal des Debats*, and Etienne, one of the principal proprietors and editors of the *Constitutionnel*, might be considered as elected out of regard for the spirit and talent of the jour-

alists, and in vindication of the freedom of the press. In fine, the whole current of public opinion set decidedly against the ministers, and effected the return of a majority of deputies adverse to the principles of their administration,—thus settling the question as to M. de Villele's remaining at the head of the government. As the new chamber did not assemble, nor a change in the ministry, actually take place, until the beginning of the year 1828, the consideration of the subject does not fall within our present limits.

When the result of the election in Paris and other principal towns was known, the people testified their joy by illuminations, and other rejoicings, in the course of which incidents occurred, which gave the opposition papers room to charge the ministry with exciting riot and tumult, in imitation of lord Castlereagh's *alarm* policy, so as to afford pretext for adopting strong coercive measures, to repress the confidence of the popular party; and the facts give much colour to the accusation of employing miscreants to stir up insurrection, in order to have the satisfaction of quelling it, and then misrepresenting the spirit of the people. At an early hour in the evening of Monday, November 26, small groups of boys paraded down the rue St. Martin, rue St. Denis, and rue St. Honore, and where the houses

were not illuminated, cried out for lamps, and threw a few stones, but not so as to occasion any serious damage. Detachments of gendarmes assembled, and might easily have arrested the rioters; but, instead of this, they wreaked their vengeance on the unarmed spectators, most of whom were drawn to the rue St. Denis by mere curiosity. When it became known to the multitude that the soldiery were coming, they took away the scaffolding of a house under repair, and hastily formed a barrier for their protection; but their attitude was not menacing; and when a sudden order was given for the troops to attack them on all sides, not the least resistance was offered, and the defenceless men, and even women, collected in the narrow street, were exposed to the fire of the infantry. Eight persons were killed on this night; and the number of the wounded was very considerable. On Wednesday evening a like scene occurred, attended with much greater bloodshed. Undeterred by the lamentable incidents of Monday, the mob again assembled, and the troops kept up a regular fire upon the people, until nearly fifty persons were killed, and a large number wounded, under circumstances which bore every appearance of premeditated and wanton butchery. No other disturbance occurred after this tremendous lesson. Indeed, for a

week, the Boulevards, and many parts of the city, were lined with troops, and cannon were placed on the bridges, as if Paris was undergoing a siege. All this, it may be well supposed, greatly augmented the exasperation of the people, already sufficiently hostile to the existing ministry.

Amid all the little troubles and disputes, which, as we have seen, agitated France, the country had continued to go on rapidly recovering from the calamities and depression occasioned by the wars of the revolution. From an article in the *Moniteur*, which, however much disposed to represent things in a light favourable to the nation and the ministry, states facts and figures in a manner consistent only with truth, we abstract a comparative statement of the state of things in 1816 and 1826. In 1816 the population of France amounted to 30,000,000; in 1826, it exceeded 32. In 1816, her agriculture was at the last gasp, destitute of hands and capital; in 1826, it supported a population greater by a tenth; it doubled its produce of wine, and had more horses by 400,000, more oxen and cows by 350,000 and more sheep by 5,000,000. In 1816, she manufactured less than 100,000,000 of kilogrammes of cast iron; in 1826, more than 160. In 1816, her manufactories consumed 12,000,000 of kilogrammes

of cotton wool; in 1826, 32,000,000. In 1816, she imported 400,000 kilogrammes of silk; in 1826, it was double. In 1816, the wool manufactured was 46,000,000 of kilogrammes; in 1826, 48. In 1816, the sugar refined in France, was 21,000,000 of kilogrammes; in 1826, 27,000,000. In 1816, her commerce at home and abroad was feeble and confined; in 1826, all the foreign markets received her goods, and the home market was enlarged. In 1826, the foreign trade of France employed 8335 vessels, 659,391 tons, and 61,970 men. From 1816 to 1826, the direct taxes were reduced 72,000,000, and the indirect amounted to 180. In 1816 she was overwhelmed with frightful engagements; in 1826, all the expenses of the occupation and arrears had been paid off three years; the first three fifths of 30,000,000 of rents, created to indemnify the proprietors dispossessed by the revolution, were issued without having affected the price of stocks.

The revenue of France is large and increasing, as will be seen by the following comparative statement of the produce of the revenue for the first nine months of 1826, with the produce of the revenue realized during the same nine months for 1825.

From direct taxes,		1826.	1825.
Woods and forests.	Sale of wood,	25,950,000	22,690,000
	Accessories,	4,466,000	4,032,000
Stamp duties,		132,909,000	128,759,000
Revenue and sale of domains,		1,897,000	2,344,300
Customs, navigation dues, &c.		78,359,000	70,828,000
Indirect taxes on salt.	Levied at the pans on the coast,	35,503,000	36,973,000
	In the interior,	4,585,000	4,791,000
On liquors,		79,886,000	77,709,000
Various indirect taxes, stage coaches, &c.		16,927,000	16,470,000
Sale of tobacco,		49,686,000	49,758,000
Sale of powder,		2,966,000	2,877,000
Post office, 5 per cent. on sending money,		19,106,000	19,192,000
Mails and packets.		1,212,000	1,253,000
Lottery,		8,335,000	12,697,000
Miscellaneous,		4,877,000	3,551,000

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f. 170,181,000 453,929,300

or \$91,100,000 90,800,000

A comparison of the two years shows a decrease of 6,578,000*l.* and an increase of 19,638,000*l.* making a difference in favour of the present year, of 18,060,000*l.*

She had the finest finances in human industry, exercised under Europe; and her condition internal- favourable circumstances, and in ly was more generally prosperous a country where it enjoys adequate than that of any of the European protection from foreign competi- nations. Such are the effects of tors.





## CHAPTER XVI.

*Portugal.—State of Parties—Chaves—Views of Spain—Preparations in Spain for invading Portugal—Negotiations at Madrid—Rising of the Disaffected—Session of the Cortes—Invasion of Portugal by Chaves—Military Operations—English Troops—Battle of Coruchos—Last effort of the Rebels—Feelings of the Portuguese towards the British—Cortes prorogued—Meeting at Elvas—Portugal in May—Changes of Ministry—State of Parties in August—Return of Don Miguel determined—Preparations therefor.*

RESUMING the history of the Peninsula where we left it the last year, we proceed, without any prefatory remarks, to describe the organization, progress and conclusion of the Spanish invasion of PORTUGAL, and for the sake of regularity and succinctness we shall complete the account of the latter kingdom before giving that of Spain.

Notwithstanding the apparent cordiality with which don Pedro's constitution was received in Lisbon and other parts of the kingdom, elements of disaffection existed, which soon began to embarrass the movements of the regency. There was a servile party, consisting of many priests, a few nobles, and some of the military officers, who felt irrecon-

cilably hostile to the introduction or spread of liberal principles in whatever shape. Through the want of any better point of union, rather than from admiration of the character of the individual, this party rallied around the name of the absent don Miguel. They were secretly assisted by the queen dowager, who, although subject to a kind of honourable confinement at Queluz, was unceasing in her efforts to disturb the new orders of things. The marquis of Chaves, better known in Europe as count Amarante, was an aid of lord Wellington's during the peninsular war. Being a particular friend of don Miguel's, and greatly in favour with the queen mother, and also possessed of great possessions in the northern part of the king-

dom, he attained the credit, if credit it may be called, of heading the party which sighed for the restoration of unqualified despotism. In 1823 he led the anti-constitutionalists of *Tras-os-Montes*, and succeeded in overcoming the cortes. His success at that time may have been considered as prognosticating his fortune in the present case; and may thus have imparted boldness to himself, and confidence in him to his followers. His most distinguished associates were the viscount Canellas, and generals Montealegre and Magessi, officers of some reputation in the army. They counted upon seducing the soldiery to join their cause, and upon being warmly supported by the priesthood, the lower classes of whom were not and could not in the nature of things be friendly to the new constitution, which tended to circumscribe their influence and diminish their importance. Working with such instruments, and cloaking their purpose under the specious name of religion, Chaves and his coadjutors manfully prepared to proclaim don Miguel, and to raise the standard of opposition against the regency.

But the conspirators well knew they could accomplish nothing of themselves, and without the aid of some other government. All the great European powers, Great Britain, France, Russia, Prussia, and Austria, had expressly recognized

the new regency, and thus lent their sanction to the constitution. Nothing was to be expected, therefore, from the disapprobation of the leading powers of Europe. But Spain, although she stood alone opposed to the constitutional government of Portugal, and although she was degraded by the mischievous policy of the ruling party to the lowest degree of imbecility and wretchedness,—Spain alone refused to allow the neighbouring kingdom and its legitimate princes to pursue their own measures of internal government. She persisted in regarding the political changes which Portugal had undergone as a pernicious example of misrule, threatening the most fatal consequences to herself; and not content with suppressing constitutional forms at home, Ferdinand seemed to feel it necessary to his safety to prevent their existence in Portugal. He forgot that the constitution, being a free grant from don Pedro, the lawful hereditary sovereign of the kingdom, not extorted from him by fear, nor imposed upon him by rebellious subjects, or disaffected soldiery, was wholly unexceptionable even according to the slavish maxims of the parties to the holy alliance. Disregarding alike the rights of Portugal as an allied nation, and the plainest dictates of prudence, Spain resolved to oppose, and if possible subvert the regency and the constitution.

Conscious, however, that an immediate open declaration of war would be difficult to justify, and moreover that the condition of the country would not warrant the measure, the government of Spain sought to attain that, by secret intrigues and covert means, which they durst not attempt in any other more honourable way. Instead, therefore, of organizing a Spanish army, as such, for the invasion of Portugal, they began by supplying resources to Chaves, Canellas, and their fellow conspirators. So early as July, 1826, the machinations of Chaves and his adherents had occasioned desertions from the Portuguese army. They appeared in different places along the frontier, instigating the troops and people to rebellion, assembling the disaffected in bands, and marching them into Spain, to receive the protection and countenance of the local authorities there, and await a convenient time to return in hostile array. Chaves and Montealegre were engaged in this business in the north; and in the south Magessi was arranging at Badajos, the deserters belonging to the province of Alentejo.

All these operations were carried on openly and tranquilly in the Spanish territory, under the eye, and with the sanction of the local authorities, with as much regularity as if Spain had formally declared war against Portugal.

With singular inconsistency, these seditious factionaries, whose pretended object was the defence of the altar and the throne, proposed to make the most violent alterations in the succession to the crown. On the 31st of July, they proclaimed don Miguel king, and the queen mother regent during his absence, although Pedro and each of his children had prior claims; and failing Miguel, they bestowed their allegiance on the princess of Beira, and her son, although by the Portuguese laws, her marriage rendered her incapable of the succession.

The contiguity of Spain and Portugal, and the nature of their past relations, had given occasion to treaties, which, if executed faithfully, would have provided fully and precisely for the present contingency. Each country was bound to disarm all deserters from the other; and, if required, to deliver up the deserters themselves. Instead of performing these engagements, the military and civil governors of Spain along the frontiers, cordially received the Portuguese rebels as allies, and supplied them with arms, ammunition, provisions, and other necessities, in the same manner as if they had actually been Spaniards. Reiterated applications were made to the commanders in the frontier towns, and border fortresses, urging the enforcement of the existing treaties:

but without producing the slightest effect. Thereupon Gomez, the Portuguese minister in Madrid, was directed to represent the abuse to the Spanish government, to demand the apprehension of the deserters, and the seizure of their arms for the purpose of restoring them to Portugal; and the removal and punishment of the local authorities, under whose eye the infractions of treaty had taken place, and received a kind of public sanction. To add, however, to the embarrassments of the regency, it soon appeared that Gomez himself was devoted to the cause of the insurgents; and the duty of maintaining the interest of Portugal at the Spanish court thus devolved upon Mr. Lamb, the English ambassador, by whom they were ably sustained. But all his remonstrances were met with the usual course of paltering evasion, which distinguished the conduct of the Spanish ministry throughout the present affair. Longa, S. Juan, and the other commanders on the frontiers, were protected in their conduct; the refugees continued to be cordially received; and the equipment of infantry and cavalry was carried on in Galicia, Valladolid, and Salamanca, with redoubled diligence.

No change taking place in consequence of Mr. Lamb's remonstrances, the marquis of Villa Real was despatched to Madrid as plenipotentiary in place of Gomez. But with sin-

gular infatuation, the Spaniards not only refused to acknowledge the Portuguese regency, but also refused to recognise the official character of Villa Real. Although such conduct would have been ample justification of a declaration of war on the part of the regency, yet the latter continued to hope, that the alternative of actual hostilities might be averted. Villa Real, therefore, was unremitting in his endeavours to impress upon the Spanish ministry, how unjust it was to persist in suffering, if not encouraging, the subordinate agents of the government to commit the most barefaced infringements of the rights of a neighbouring and an allied nation. All that he obtained, was new assurances from Mr. Salmon, of the innocence of the Spanish government, as fallacious, and as futile as those which had been given before; assurances, which, in the circumstances of the case, were little better than an insult upon Portugal.

Mean time, the great body of the nation was comparatively tranquil. Disaffection to the constitution and regency seemed to be confined to the military, and to the small towns on the frontier. Lisbon and Oporto were decidedly favourable to the new order of things; and the military of the interior betrayed no symptoms of unensiness. A conspiracy, which had made some progress among a few companies in Lisbon, was soon detected, and

easily suppressed. The regency took suitable precautions to prevent the recurrence of such attempts. In September, a decree was issued for punishing all fugitives from the kingdom with the sequestration of their property, according to the provisions of law, in order to deter others from imitating their example. And thus matters continued until the beginning of October, when the duke of Abrantes landed at Tavira in Algarve.

He induced a regiment of chasseurs to join him, and marching eastward to the town of Villa Real, he compelled the inhabitants to proclaim Don Miguel. But no part of the population joined the insurgents, nor were they aided by the rest of the military in the province. Of course, they were obliged to flee on the approach of general Saldanha, the minister of the department of war, and took refuge in Spain. The same fortune attended a rising contemporaneously made by Chaves, in Trás-os-Montes. At this time, therefore, not a single spot in Portugal was occupied by the insurgents; and if Spain had conducted with candour and ingenuousness, the tranquillity of the whole country would have been instantly and permanently secured.

An extraordinary session of the cortes of Portugal, was appointed by the executive to take place on the 30th of October, in conse-

quence of the unpromising aspect of affairs. New taxes had become necessary, to meet the increased expenditure occasioned by the rebellion. Add to this the circumstance, that, if the rebels continued to be upheld by Spain, it might be advisable to invoke the aid of Great Britain; and in this event a vote of the cortes would be necessary to authorize the introduction of foreign troops into the kingdom. The speech of the Infanta Regent, delivered upon the opening of the chambers, was moderate, conciliatory, and judiciously conceived and expressed. She artfully represented the new constitution as substantially reviving the ancient cortes of Lamego, and other liberal institutions of the early ages of the monarchy. She recommended the legislature to bestow their earliest attention upon measures calculated to maintain the public tranquillity, and give stability to the political system established by the constitution. In alluding to the troubles with Spain, she wholly abstained from the use of irritating reflections upon the unworthy double dealing of that nation, contenting herself with a decided expression of the pacific feelings of the Portuguese government towards the Spanish.

To supply the deficiency in the budget of the year, the minister of finance was authorized to procure a loan of 2000 contos of

reis; it being considered inexpedient, in the present unsettled state of public affairs, to have recourse to additional taxation.— Another important measure was, to fix the establishments of the different members of the royal family; a duty imposed upon the cortes by the charter. They made liberal allowances to the infanta regent, the queen mother, the young queen herself, and the rest of the royal family, in addition to their permanent income from other sources, and the palaces, and other property in their possession.

Notwithstanding the ill success of their last attempt, the deserters were diligently preparing for another invasion, stimulated and supported therein by the government of Spain, which still continued to pursue the same ambiguous and unmanly policy, of professed neutrality, but covert hostility. Canelas himself, instead of being ordered out of Spain as Mr. Salmon had promised, openly directed the operations of the rebels. Their plan was to enter Portugal in two divisions, at the opposite parts of the kingdom. Magessi with one division was to invade Alentejo, while Chaves with the other entered *Tras-os-Montes*; and thence proceeding towards *Coimbra*, both divisions were to unite in this place and march upon the capital in a body. Previous to putting their

designs into effect, they took a solemn oath at *La Serna*, the 11th of November, with much religious ceremony, to maintain the claims of don Miguel and of the princess of Beira, under whose names they pretended to act. These solemnities immediately preceded the actual invasion. On the 22d of November, a body of the rebels, commanded by the marquis of Chaves and viscount Montealegre entered *Tras-os-Montes* in the direction of *Braganza*. They consisted of 800 regular infantry and 200 cavalry, beside a large party of Spanish and Portuguese guerillas. General Claudino, the commander of the province, not having troops enough to protect *Braganza*, immediately retired upon the town of Chaves, to await reinforcements. Colonel Valdez, who held the *Braganza* with 500 troops of the regency, was accordingly beaten by superior numbers, and after maintaining the citadel a few days, found himself under the necessity of surrendering by capitulation. At the same time, Magessi entering *Alentejo* with his division, took possession of *Villa Viciosa* without opposition.

Notwithstanding the publicity of the preparations made by the rebels in Spain, and the notoriety of the intended invasion, it came upon the regency in the nature of a surprise. The frontiers had not been strengthened by any additional de-

lences or troops ; nor had any systematic plan of resistance been devised. So completely disorganized was the regular army, that it became necessary to rely upon the militia, for such aid as it might be able to afford. Indeed, when intelligence of the invasion reached Lisbon, the regency felt itself in so forlorn a condition, that instant application to Great Britain for her assistance seemed to be the only certain resource against utter dissolution of the government. The regency justly considered the conduct of Spain tantamount to a declaration of war, and under this idea immediately notified the count of Casa Flores, the Spanish minister, that his diplomatic functions were suspended. Instructions were also despatched to Villa Real, ordering his departure from Madrid, if Spain did not formally recognise the regency forthwith. Volunteer corps were hastily raised for the defence of the country, all classes of persons in and about the capital exhibiting the greatest alacrity in arming to repel the invaders. The students of Coimbra having petitioned for permission to arm, were organized into a regiment. The chamber of peers in a body, offered to march against the rebels ; and many of them actually hastened to the theatre of hostilities as volunteers. General officers were appointed to the command of the troops on the frontiers, the marquis

of Angija in the province of Entre Douro y Minho, and the marquis of Villa Flor in that of Alentejo. In short, whilst invoking the aid of England, the cortes and the people adopted all the means of defence against the rebels, which the internal resources of the nation afforded.

Meanwhile, ere the expected succour from Great Britain had time to arrive in Portugal, the movements of the rebels had continued with some vicissitudes of fortune on either side, until at length they sustained a decided check. Chaves proceeded from Braganza towards the Douro, plundering the towns and ravaging the country in his line of march, and thus advancing by the 1st of December, as far as Mirandella. It was uncertain for a while what course the rebels would next pursue. Great apprehensions were entertained in Oporto, lest that place should be the first great object of attack. As the estates and family influence of Chaves were immense in the northern part of the kingdom, disaffection spread thence with great rapidity, and exaggerated accounts of the rebel force became current in Oporto. Many of the wealthy merchants, especially the English, anticipating that the city, if captured, would be consigned to pillage, embarked their effects, to be in readiness to sail on the approach of Chaves. But general



Stubbs, who was governor of Oporto, and the marquis of Angija, the new commander in the province of Minho, made such judicious arrangements for defence, as to ward off the anticipated blow,—chiefly by establishing a strong line of posts along the river Tamego, a branch of the Douro, separating Tras-os-Montes from Entre Douro y Minho.

Other objects, indeed, now allured the rebels elsewhere, whatever might have been their previous designs upon Oporto. The measures taken to strengthen the line of the Tamego, had left the right bank of the Douro unguarded, and the way open to the province of Beira. And in this province the marchioness of Chaves had been busily and successfully employed, in bringing over the ancient city of Lamego to the cause of the rebels. Animated by her, and by the emissaries of the *absolutists*, the multitude assembled in the streets, shouting the name of don Miguel, and invited the insurgent army to march to the city. Accordingly Chaves and Montealegre having crossed the Douro, fixed their head quarters at Lamego, and early in December, established a junta of government in the name of Miguel. Here they gained a considerable accession of numbers, by means of the disaffection of the towns, and of some militia in that quarter of the province. At one time their force

was estimated at 10,000 men. They advanced, therefore, as far as Viseu, the regency having no adequate forces to withstand their progress; and waited here until they should be joined by Magessi, according to the original plan of operations.

Magessi, as we have already seen, had easily made himself master of Villa Viciosa, and compelled or persuaded the garrison to unite with his followers. His army contained many Spanish auxiliary troops, and he was promised a park of artillery from Badajos. Reckoning upon the expected disaffection in the province of Beira, he hastened his march northwards, in order to meet Chaves. But at Estremoz he heard of the approach of the marquess of Villa Flor, who came up with his rear guard at Portalegre, on the 10th of December. A slight skirmish ensued, in which Magessi being worsted, immediately took refuge in the Spanish territory; and after relieving his troops at Alcantara, rapidly pursued his march northward, along the frontier, upon the Spanish side of the line, until he reached the vicinity of Upper Beira, when he repassed the line, and suddenly made his appearance at Almeida, not far from Guarda, which had already declared for the insurgents. Until this time, Villa Flor had lost sight of Magessi's movements; but on learning where the latter now was, Villa Flor instant-

ly broke up from Portalegre, and crossing the Tagus, marched northward so promptly, as to reach Guarda by the 23d of December. He defeated the rebels at this point, and placed himself in communication with generals Claudino and Azeredo, the officers of the regency opposed to Chaves; while at the same time, the two divisions of the rebels effected their intended junction; Chaves and Magessi occupying the northern part of the province from Almeida to Viseu; whilst Villa Flor and Azeredo held the western and southern parts of Guarda to Coimbra.

Such was the position of the rebels, concentrated in the province of Beira, but held in check by the forces of the regency, who, with their commanders, the nobility, and it was supposed, the great body of the people, remained faithful to the constitution, and prepared to maintain it with their blood; when the news of the arrival of the English troops completely blasted all the hopes of the anti-constitutional party. Intelligence of the tenor of the king of England's message to parliament, and of Mr. Canning's speech, reached Lisbon, December 23d, and was received there with the liveliest demonstrations of gratitude and enthusiasm. Mr. Canning's speech was translated, and sought after by all classes with extreme avidity. It operated like a charm, dispelling at once, all the

fears that prevailed, and animating all ranks with renewed hope and vigour. General admiration was excited by the promptitude with which actual succours arrived from England; for when the regency were only expecting to hear the promise of aid, the British transports had anchored in the Tagus. It was considered by the inhabitants of Lisbon a happy omen, that the two first regiments landed on Christmas day. By the 1st of January, 1827, all the vessels in which the British troops had been embarked, had arrived in safety; the government of England having exhibited a readiness of decision, and promptness of execution, upon this important occasion, of which few, if any, more striking examples are found recorded in history.

Happily, however, nothing occurred to render the active interference of the British troops necessary. Their presence in Lisbon enabled the government to despatch an additional force against the invading rebels, and to act with spirit and efficiency. Hitherto, the troops of the regency had confined themselves to defensive operations, aware that a defeat would exercise a fatal influence over the feelings of the nation at large; and unwilling to hazard every thing upon the issue of a single battle. But the arrival of the British auxiliaries put an end to all these prudential considerations. Claudino and Aze-

redo entered Viseu, December 28th, driving the insurgents before them, whilst Villa Flor came up from the environs of Guarda ; and the united army of the constitutionalists brought the enemy to a stand at Coruches, where a decisive battle was fought the 9th of January, in which the rebels were totally defeated. The whole body of the insurgents dispersed and laid down their arms, except about 1000 men, who made good their retreat into Spain. Villa Flor pursued his advantage, and after clearing the entire province of Beira of the fugitives, he entered the province of Trás-os-Montes, and drove to the frontiers the few relics of the insurgent army, which still remained upon the Douro. Contemporaneously with these successes, generals Angiá and Mello recovered the town of Chaves, thus leaving only Braganza in the power of the rebels ; and the surrender of this place was soon announced.

Although it was known that a small party of the rebels continued in the province of Trás-os-Montes, yet it was universally supposed that they no longer held military possession of any part of the kingdom. Of course, great consternation was occasioned by the news that they had re-appeared in force, and were threatening Oporto anew. It appears they entered the province in scattered parties, but in considerable numbers, and assem-

bling near Chaves, attacked colonel Zagallo, who occupied an advanced post at the bridge of Mizarela, and either routed and dispersed all his men, or persuaded them to desert their colours. Zagallo himself fled to Oporto, accompanied only by an adjutant and two soldiers, and quickly followed by the garrison and militia of Braga, who did not venture to wait the coming of the rebels. Urgent requisitions were immediately sent to Lisbon for British troops to defend Oporto, but the next intelligence tended to allay the public apprehensions. The rebels had spread across the kingdom as far as Guimaraens and Braga, and their cavalry pickets had advanced to within a league of Oporto ; but the count of Villa Flor had, on hearing their approach, immediately moved down to cover the city, and had reinforced the garrison with two regiments sent down the Douro in boats,—and Oporto was therefore considered perfectly safe. Villa Flor speedily compelled the rebels to retreat from Guimaraens and Braga, defeated them, and obliged them to fly in all directions. Indeed, this body had not been numerous, and could never have crossed the country in the face of a superior army, had they not been favoured and protected by the peasantry. But all the remnants of the party being now insulated in a corner of Trás-os-Montes, and

surrounded by a powerful army, ready to be reinforced at any time by 5000 British troops, all the attempts of the rebels after this time, were mere expiring struggles, not deserving of detailed notice. As the Portuguese entered the Spanish territory, they were met and disarmed, and the sick and wounded distributed in various places in the interior; Chaves and his uncle Silveira, it is said, being obliged to return into France.

In the accounts of the arrival of the English army, as contained in the English newspapers soon afterwards, a highly coloured description was given of the acclamation of joy which greeted their landing in Lisbon. But the fact was precisely the reverse of this. Most of the troops remained at Lisbon the whole of January, no occasion for their services in the field having occurred during that space. When the rebels re-appeared in the neighbourhood of Oporto, in the beginning of February, as just related, Sir William Clinton issued orders for the whole army to rendezvous at Coimbra, on the 18th of February. He arrived there on the 19th, large detachments of the troops having preceded him;—and except some unimportant movements, there the brigades remained stationary, as no hostile demonstration was afterwards made by the disaffected Portuguese, and the Spanish army of

observation, under general Sarsfield, effectually preserved tranquillity on the frontier. By a convention between Great Britain and Portugal, the latter stipulated to provide the necessary barracks, and quarters, and buildings for hospitals, stores, and magazines, and the necessary rations of provisions, for the officers, soldiers, horses, and cattle of the auxiliary army, according to the regulations of the British service; in consideration of which Great Britain engaged not to bring forward any pecuniary claims against the Portuguese, for the assistance afforded them against Chaves and the Spaniards. These terms were sufficiently favourable to Portugal; and but for the particular circumstances of the case, the Portuguese would have received the succour with proper sentiments of gratitude and good will. But, unfortunately, the Portuguese very generally regarded the British army as being sent, not to repel invasion, but to uphold the constitutional cause. However unlucky this may have been, it was perfectly natural, and produced a manifest coldness of feeling among the better class of the Portuguese, and of antipathy among the lower orders, towards the British troops, which could not but attract the attention of every unprejudiced observer.

If the arrival of the British army had been generally accepta-

ble to the people, the occasion of their landing would have been peculiarly likely to call forth emotions of pleasure and exultation. But the utmost which can with truth be said of their reception on landing is, that they met with no insult. Among the crowd of spectators who witnessed it, there were, doubtless, many warm constitutionalists, who felt anxious to give them a gracious reception; and there were many Portuguese, who, enriched by profitable contracts during the Peninsular war, anticipated, with much satisfaction, the renewal of their old advantages for pecuniary gain. But all the efforts of these persons, added to the numerous English residents in Lisbon, did not succeed in producing the ordinary tokens of hearty welcome. The mass of the population remained silent and indifferent; and the appearance of some of the finest military corps in Europe, failed to call forth any of the expressions of admiration, so commonly produced by the spectacle of a body of brilliant and well appointed troops. The British officers were billeted on those householders in Lisbon, who were supposed to be best able to afford them hospitality; but, instead of being received with enthusiasm as deliverers, a majority of them were refused admittance on presenting their billets. Afterwards, various other indications of want of cor-

diality between the citizens and the British troops, were observed. At their parades, scarce any emotion, other than a dull curiosity, could be witnessed in the spectator. Several of the soldiers were stabbed in obscure streets by low Portuguese, whose expertness in the use of the knife, is too notorious. And the gentry did not show any such disposition to unite with the British officers at public ball rooms, and other places of amusement, as they must have done, if they had been animated with sentiments of gratitude and attachment towards their allies, and a desire to give them an adequate welcome. These, and various other little circumstances, bespoke the feelings of the people on the subject, in a manner not to be mistaken.

In order to understand the reason of this, it is to be considered that, ere the last detachment of the auxiliary army had arrived, the occasion, which originally called for their presence, had ceased to exist. The concessions made by the Spanish government deprived the war of the character of a foreign invasion, and left it only that of a struggle between two parties, maintaining their opposite political opinions by arms. Mr. Canning had stated that he did not intend, by sending the troops, to give a preponderance to one party in Portugal over another; yet such was

precisely the operation of the measure. They went as the auxiliaries of the regency, which subsisted only by the appointment and as the organ of the constitutional party ; and they went nominally it is true to oppose Spain, but in fact to oppose Chaves and the party averse to the constitution. In fact, as later events have clearly shown, the presence of the British troops was the great means of supporting the authority of the regency ; and its recent withdrawal has been the signal of new revolutions. The monks and clergy, and the other violent enemies of the constitution, were indefatigable in their efforts to influence the people : and they did not address unwilling ears. Of course a large portion of the community regarded the British troops with distrust and dislike ; and a minority only looked upon their coming as a blessing to the country.

Nothing of any consequence took place in Lisbon until the 31st of March, when the session of the cortes was closed with the usual formalities. The peers and deputies assembled in the Ajuda palace to be prorogued : and the princess regent being unable to attend in consequence of indisposition, they were addressed in her name by the bishop of Viseu, the minister of the home department. Thus far the cortes had done nothing towards altering the laws, to make them

conformable to the liberal principles contained in the constitution ; and the ancient usages of the kingdom remained untouched, notwithstanding the constitutional provisions, which could be considered as nothing better than a dead letter, until their details were embodied in the municipal laws of the land.

In April, a mutiny broke out in the fortress of Elvas, a strong castle on the frontiers, only a few leagues distant from Badajoz, which served to keep alive the anxiety of the government. On Sunday the 29th, four companies of a regiment of the line marched out of the barracks, without their officers, and with colours flying, followed by a great crowd of the lower classes, shouting "Don Miguel and the Silveiras for ever." They proceeded to the quarters of their colonel, in hopes that he would join them ; but being disappointed in this, they marched towards the fort de Graça, and were joined by some companies belonging to other regiments. The officers remained faithful to their duty ; and it was expected the mutineers would soon disperse of their own accord. This not proving to be the case, general Cailla, the governor of the place, marched up a regiment of cavalry and another of infantry, and made a general attack upon the mutineers in the course of the night.

by which means the revolt was completely quelled, but not without the slaughter of a number of the misguided soldiery. Many of them were taken prisoners; and some escaped into Spain, by different ways, between Merida and Badajoz.

Accounts from Portugal in May, represent the situation of things as precarious, notwithstanding the late success and apparent strength of the regency. Of the great body of the people, a part, perhaps the larger part, were considered as opposed to the constitution; and another large class, who desired only to be permitted to enjoy the fruits of their industry in peace, were indifferent whether the constitution fell or not. Its most decided friends were those intelligent persons in the seaport towns, who, in the pursuits of commerce or manufactures, had acquired a knowledge of a better state of things than the domination of an absolute king and a bigotted priesthood. The termination of the session of the cortes had separated the pledged supporters of the constitution, and left the peers without the energy derived from the facility of acting in concert, and reduced the deputies to the level of private life. Although the ministry acted under authority emanating from the emperor of Brazil, yet they were charged with refusing to promulgate important decrees from Don

Pedro, of which Dr. Abrantes was the bearer; and although England stood before the world as a patron and defender, and almost as the author of the constitutional system, yet Sir William A'Court, the British resident minister, who had assisted at the funeral ceremonies of the Neapolitan and Spanish constitutions, was reputed to entertain no friendly feelings towards that of Portugal.

During the summer months, the court of the princess regent appears to have been given up to a series of intrigues, and puerile mutations of policy, which boded no good to the constitutional cause. On the 9th of June it was announced that all the members of the cabinet, excepting general Saldanha, the minister of war, and Sr. A. Manuel de Noronha, the minister of marine, had resigned; and the vacant departments were filled by the appointment of the marquess de Palmella, to be minister for foreign affairs; the count de Louza, for finance; the viscount de Santarem, for the interior; and the bishop of Algarve, for grace and justice. This change of ministry was deemed to be favourable to the liberal party; and as the distracted and dependant state of Portugal caused every act of the government to be ascribed to foreign influence, Mr. Canning was groundlessly accused of being the means of bringing about this mea-

sure. The marquess of Palmella being absent in London, as Portuguese ambassador to the court of St. James, it remained to be seen whether he would accept his new office. Meanwhile, an edict was published, dated June 28th, relative to the liberty of the press, which, in its operation, put an end to all discussion concerning the laws or government of the country. In July, again, the minister of war, Saldanha, who had produced the late change in the ministry, was displaced, partly by the influence of his uncle and colleague, the viscount de Santarem. On its being understood in Lisbon that general Saldanha had been dismissed, a popular movement took place among the people, in consequence, and the princess regent was urgently intreated to restore him to his office. The tumult subsided, however, without any injurious effects, no disorder of a serious nature having been intended by the people. General Stubbs, the governor of Oporto, and a meritorious officer, was also removed from his office, for having solicited the princess regent to restore general Saldanha. And in August the bishop of Algarve, and Noronha, the minister of marine, were obliged to leave their offices, either on account of the regret they expressed for the dismissal of Saldanha, or as others conjecture, because they were in favour of ob- serving the decrees of don Pedro.

But ere long, the current of politics set in another direction.— The viscount Santarem himself was dismissed, from motives of caprice, or from unexplained reasons of state.

These frequent changes of ministers, and various capricious acts of rigour or folly, which it is unnecessary to particularize, served to bring the government of the princess regent into disrepute, and to prepare the minds of men for their necessary termination in another revolution. Universal uneasiness and expectation of indefinite and uncertain changes pervaded the kingdom, and agitated the whole community. The princess regent constantly travelled under an escort, partly of English lancers, unwilling, apparently, to trust herself in the midst of her countrymen. Every thing, in short, portended an impending crisis in affairs; not arising, however, from any apprehensions of military enterprises on the Spanish frontier, because, on the 27th of August, a decree was published, ordaining the dissolution of the army of operation, under the count of Villa Flor. Well disposed citizens began to express an opinion, that almost any change, which should impart stability and consistency to the government, would be preferable to the present state of things. Many imputed the vacillation and apparent capricious-



ness of the princess regent to a secret design of preparing the way for the assumption of absolute power by Miguel. Others, more charitable, ascribed her conduct to the inherent difficulties of her situation. She was a female, wholly unprepared for the arduous duties, which accidental circumstances devolved upon her; and was called upon to govern a country distracted by powerful and balanced factions, the scene of subtle intrigues or audacious plots, which the firmest and most practised masculine hand might have found it difficult to control. Men construed the strange events which they witnessed, according to their pre-conceived opinions, as they safely might, when every thing seemed lowering, ambiguous, and fraught with approaching vicissitude. •

The old partisans of Don Miguel, the apostolical factions, all those persons who possessed a common bond of union in their aversion to Pedro's constitution, began to speak with boldness and confidence, of what they lately durst hardly whisper. This was the immediate return of Don Miguel from Vienna for the purpose of assuming the regency, and perhaps the crown itself. Sir William A'Court was accounted favourable to the views of these persons. They founded their calculations upon the article of the charter, which enacts, that "Du-

ring the king's (or queen's) minority, the kingdom is to be governed by a regency, which shall belong to the nearest relative of the king, according to the order of succession, who shall have attained twenty-five years of age." Miguel would reach this age in October; and the question now arose, whether the regency of Isabel Maria was not, by the charter temporary only; and whether she ought not to be superseded by Miguel. While this conclusion seemed to be encouraged by the particular article under consideration, other parts of the charter seemed adverse thereto; and thus the question remained sufficiently doubtful to afford each party a fair field of discussion. The constitutional party anxiously desired the presence of Don Pedro in Portugal, as, in their opinion, the only means of quieting the angry factions, which agitated the country, and placing its government upon such a footing as to prevent the continual recurrence of civil wars. Their opponents, on the other hand, laboured incessantly to secure to Miguel a favourable reception in the kingdom, and to reconcile the people to his eventually overturning the constitution, and declaring himself absolute king of Portugal. It was understood, that Austria had expressed its determination to maintain Don Miguel's rights. Demi-official pieces in the French journals argued elaborately in

support of his pretensions, and proceeded the length of asserting, that Pedro, having abdicated the Portuguese throne, settled the form of government by a constitutional charter, and fixed the succession to the crown, no longer possessed any authority whatever in Portugal; and that therefore his presence there at this time, would be an unwarrantable intrusion, which could not fail to afflict the peninsula with the most violent political convulsions. English journals, having a like reputed connexion with the government, admitted, that the immediate return of Miguel was a probable event; and intimated, that although insuperable objections existed to the unconditional assumption of power by him, yet such an arrangement might be made by the allied powers, as would put an end to the public anxiety now, and insure the future tranquillity of Portugal.

It was impossible to mistake the meaning of these hints. They were elicited by the negotiations in train for enabling Miguel to assume the regency on arriving at the age of twenty-five years. Accordingly it was officially announced in Lisbon, on the 22d of September, that a messenger reached London in August, with letters from Don Pedro to his brother Miguel, and to the courts of Austria and Great Britain, announcing his consent that Miguel should return to Portugal,

and exercise the powers of government as regent or viceroy. This resolution appears to have been adopted by the emperor of Brazil in June, on the faith of the English and Austrian governments. Preparations were made without delay, for the departure of don Miguel from Vienna, for the purpose of proceeding by the way of Paris and London to Lisbon. Sir William A'Court officially communicated to the princess regent positive assurances of the favourable disposition of Miguel; who accepted the government on the conditions prescribed to him by his brother, and was coming to administer the affairs of his country, with a firm intention, as he professed, of maintaining to his utmost, the institutions granted to the nation by Don Pedro. Notwithstanding these assurances, however, the constitutional party universally distrusted Miguel's integrity, and anticipated what has since been fully realized, that he would throw himself into the hands of the absolutists, regardless of oaths and promises, and pay little respect to the charter which he was sworn to support, whatever calamities he might thus bring upon his distracted country. Multitudes of Portuguese, both military and private individuals of all ranks made arrangements to leave the kingdom, when his return was known to be positively fixed. Their fears were not allayed by the letter

which Miguel addressed to the princess regent, to announce the approaching change in the government. It was written at Vienna, under date of October 19th, and concluded with a request that a frigate might be despatched to England for his reception. We copy a paragraph in this letter, which Miguel's after conduct so grossly belied :

“ Being determined to maintain inviolate the laws of the realm and the institutions legally conceded by our august brother, all which we have sworn to observe and to enforce, and to adopt as the rule of government in the aforesaid kingdoms, it becomes me to declare this intention, in order that you, my dear sister, may give to such declaration the necessary publicity, and that you may at the same time proclaim my fixed purpose of repressing those factions which, under any pretext whatsoever, tend to subvert the public tranquillity in

these realms, and my earnest desire that the errors and faults which are past, may be buried in eternal oblivion, and that concord and the spirit of conciliation may succeed in the place of those deplorable convulsions which have rent a nation so renowned in history for its virtues, its valour, its loyalty and respectful adherence to its princes.”

It would seem that a prince, who was relieved from a state of banishment and obscurity, and permitted to assume the vice-regal sceptre, solely upon the faith of the most solemn engagements and most earnest protestations to obey the constitutional charter, could hardly have returned, in the face of all Europe, to violate his plighted honour the moment that power was placed in his hands. But we will not anticipate events ; and therefore leave the relation of Miguel's actual return to a future occasion.

## CHAPTER XVII.

*Spain.—State of Parties—Views as to Portugal—Conduct of the Government—Submits to Great Britain—Zambrano's Circular—Inganzo's Exposition—Seditious Correspondence—Disturbances at Malaga—South American states—Colombian bishops confirmed by the Pope—Abruptly announced to Ferdinand—Consequences—Disturbances in Catalonia—Carlists—Their Progress—All Catalonia in Rebellion—Demands of the Insurgents—Manifesto of the Government—Junta of Manresa—Departure of the King for Tarragona—Operations against the Rebels—Insurrection quelled.*

OUR account of SPAIN for 1826 presented a melancholy picture of public imbecility, internal disorder, and infatuated misrule; nor have more recent events indicated any material change for the better in the condition of this distracted country. We have lightly touched, in the preceding chapter, upon the conduct of Spain at the commencement of the period now under review; but a fuller developement of the policy and management of Ferdinand respecting Portugal, properly enters into the Spanish history for the year.

Ever since the overthrow of the constitutional party in Spain, the government of the kingdom had effectively been controlled by persons, who were perfectly fanatical

in their devotion to absolute powers. They seemed to be actuated by a kind of mania, in favour of bigotry in religion, and servility in politics. The apostolic faction could not but remember how ill they fared in the hands of the constitutional cortes, which, as the very first step towards raising the condition of the country, took measures for rescuing the church lands from the iron grasp of mortmain, and rendering them available for the purposes of public utility, as England had done in the reign of Henry VIII., and France in the beginning of her revolution. Of course, the priesthood, more potent in Spain than in any other nation of Western Europe, and all who were under their influence, enter-

tained a mortal hatred for the very name of a constitution. Liberty itself was odious to them, as the watchword of the millions of emancipated colonists in America, whose separation from the mother country had not only involved the latter in a hopeless and ruinous war, but shut out its whole population from access to an inexhaustible source of riches in the western world. It is easy to conceive, therefore, with what pious horror Ferdinand and his court regarded the introduction of a liberal constitution in their immediate neighbourhood, from whence the contagion of liberalism could most easily return into Spain itself, notwithstanding the bloody purification it had lately undergone.

But how should they manifest their detestation of Pedro's charter in such a way as to subvert the regency established under it, with the smallest risk to themselves? The clergy hardly stopped to consider dangers or consequences; being eager to hurry the kingdom into immediate war with the Portuguese. But enough of discretion remained in the government, to foresee that this would be mere madness. All the great powers of Europe had yielded their sanction at least, if not their approbation, to the new institutions of Portugal. Great Britain evidently felt a deep interest in the prosperity of her ancient

ally. France had acknowledged the regency. In these circumstances, Spain might easily understand, that she would not be borne out in making open war upon Portugal, merely because the latter had accepted a charter, the free gift of her legitimate sovereign. Ferdinand resolved, therefore, to avail himself of the spirit of discontent, which began to show itself in Portugal, and to encourage the disaffected to overturn the lawful government of their country. He refused to recognise the regency, by receiving the Portuguese minister in the customary manner. Desertions from the Portuguese army beginning now to take place, the Spanish captains general in Valladolid, and Estremadura, allowed the fugitives to assemble in the territory of Spain, and prepare the invasions, of which we have already given an account. Ferdinand appeared strangely to imagine that a flimsy disguise would serve to veil the character of his operations from the censure of his allies, or at least preserve him from the active interference of any one of them. But the event showed how grossly ignorant his ministry were of the precise relations between England and Portugal; and how blindly infatuated as to the temper, character, and designs of the British cabinet.

The count of Villa Real, the ambassador sent by the regency to

the court of Madrid, reached there in September. His predecessor, Gomez, having joined the party of Chaves and Cavellas, Portugal had no representative in Spain, during the earliest stage of these proceedings. Villa Real, aided by Mr. Lamb, urged the Spanish government, in the most pressing manner, and with unanswerable arguments, to comply with the faith of treaties, by dispersing and disarming the fugitive rebels, who had taken refuge in Spain. He demanded, also, the instant recognition of the regency, justly alleging that it was not the business of Spain to intermeddle with the succession or laws of the independent kingdom of Portugal. Calomarde, the minister of justice, and the other ultra royalists in the cabinet, persisted in the policy they had adopted; but to save appearances, every assurance was given in words, of the determination of the government to disarm the rebels. The minister of foreign affairs, Mr. Salmon, was solemnly promising this early in October, at the very time when the refugees were invading Tras-os-Montes and Algarves. Indignant at this outrage, Villa Real again addressed the Spanish government, which could no longer pretend ignorance of what was going on upon the frontiers. Salmon gave new assurances of the honourable intentions of his cabinet. With a de-

gree of scandalous falsehood and barefaced imposition, which is utterly inconceivable, the Spanish ministry continued to shift off all the responsibility of the military movements along the frontiers upon the captains general of the provinces. With most unaccountable infatuation, Spain seemed to suppose, that whatever her government affirmed, would necessarily be credited by Portugal and England, however adverse the affirmation might be to the most notorious facts.

Pretending at length to be forced into decision by the pointed remonstrances of Mr. Lamb, Salmon addressed a circular note to him and the other foreign ministers, dated November 28th, endeavouring to explain and justify the conduct of Spain. He no longer denied the hostile acts of the local authorities on the frontiers of Portugal; but alleged the profound chagrin of the king at occurrences of so unfortunate a kind. He stated, that on the preceding evening, orders had been despatched to the governors of the frontier provinces, peremptorily commanding them to transport all the deserters in Spain sixty miles into the interior of the country, to canton them in small bodies, to separate the officers from the privates, not to harbour any more armed Portuguese, and to expel the marquis of Chaves from Spain by force. Who.

that knew the Spaniards only by the reputation of the ancient Castilian honour, and their boasted national good faith, would have suspected that this circular was a petty piece of trickery, a link in the chain of ill-concealed frauds, intended to impose upon Great Britain and Europe? Yet, such must inevitably be the conclusion drawn from the whole series of events; for, at the very time when this circular was communicated to the diplomatic body, Chaves, and the whole armament of the rebels, had invaded Portugal in form. The Spanish government could not possibly have been unacquainted with the fact; and it was a paltry artifice, unworthy of a great nation, to pretend ignorance of that which was notorious all over the Peninsula. Indeed, to complete the disgrace of the Spanish ministry, some bad management of Calomarde's, allowed copies of the original orders sent to the captains general on the frontiers, to fall into the hands of Mr. Lamb.

By this unmanly duplicity, Spain lost her credit, and gained no equivalent. Had she boldly taken sides with the Portuguese rebels, the world might have esteemed her courage and candour, while it pitied her rashness and infatuation. All the evasive shuffling, and pretended neutrality of the Spanish government, answered no purpose, as the issue plainly showed; be-

cause every one looked to their acts, without regarding their professions. Great Britain had been closely watching the progress of the affair; and well acquainted with its true character, she only waited for the right moment, to thrust her arm into the contest, and make the assailant feel the weight of her just indignation. And yet the promptitude of the English ministry was so totally unlooked for by the apostolic party, that they seemed to be struck dumb with amazement and consternation, when news of the arrival of the British auxiliaries reached Madrid. An instantaneous change of policy ensued. Ferdinand immediately consented to receive the Portuguese minister, suspended general Longa from his command, posted a sufficient army of observation along the frontier, and made the humblest concessions to Great Britain. And thus terminated this ill judged attempt to revolutionize Portugal.

Having recounted the facts respecting the interference of the Portuguese insurgents, and shown how that interference ended, we deem it less necessary to enter minutely into the diplomatic proceedings at Madrid, at the close of the business. Two particulars, however, may be adverted to, as affording an apt illustration of the wretched impolicy, which seems to dictate all Ferdinand's measures. One of them is, the evasive manifesto, by

which the Spanish government signified their obedience to the friendly remonstrances of France, and the overpowering threats of England. This document bears date the 13th of January, 1827, and purports to be a circular letter from the war office, addressed by the minister Zambrano, to the inspector general of the royalist volunteers, and the captains general of the provinces. It is so obscure and ambiguous in its language, that the apostolic party chose to look upon it as a spirited appeal to the ancient Castilian honour, and as calling upon the nation to rouse itself in opposition to the Portuguese revolutionists, and their defenders, the English heretics. To be sure, the document did not expressly say this; but, in the involutions of its dark and doubtful periods, there was enough which the faithful could allege as being the reverse of concession. On the other hand, Ferdinand expressed the most lively desire to maintain the relations of amity which united him with his august allies, and to insure their inviolability by means calculated to create reciprocal confidence. Of all these means, he said, none were more indispensable than to observe neutrality, by abstaining from any hostile acts or co-operation against Portugal, so as not to compromise Spain with that country, or with its ally, England. He commanded the captains general not to suffer

any hostile force to remain assembled in arms on the Spanish territory; to repress and chastise every revolutionary act which should manifest itself upon the frontier; to observe the neighbouring country, and to take such efficacious measures of precaution, as should preserve Spain from hostile contagion, without hazarding her dignity, and the proverbial good faith of her character. Thus while deeply embarked in the most unprincipled intrigues against the existence of a neighbouring state, and, while yielding to the absolute necessity of becoming neutral, as the only means of avoiding destruction, the Spanish government could descend to boast of their elevated and proverbial good faith, which, like her fame in politics and arms, was the departed ornament of ages long since elapsed. It is proper to subjoin, that an army, first rated at 8,000 men, and afterwards at 24,000 men, was levied to form a *cordon sanitaire* on the frontiers of Portugal, the resources for paying and equipping which, were supposed to be furnished by the clergy. To this levy, the expressions in the circular, which bear a warlike aspect, were perhaps intended to refer.

The other particular, to which we alluded, is a document published in the English journals as genuine, and which, whether it be genuine or suppositious, undoubtedly speaks



the sentiments of the party from whom it professes to emanate. It is a private exposition, addressed to Ferdinand, immediately after the receipt of Mr. Canning's speech in Madrid, by don Pedro Inguanzo, archbishop of Toledo, and primate of all Spain, an ecclesiastic of acknowledged ability, learning, and influence. This document contains an elaborate statement of the views of the apostolical party, of the clergy and the ultra royalist, concerning the existing crisis of the dispute with Portugal. Inguanzo represents it as equally the right and the duty of Spain, to maintain the ground she had taken. He declares the question to be resolved into nothing more nor less than a war of religion, in which all true Catholics were bound to unite in defence of the holy church against the machinations of the heretics. He remarks upon Mr. Canning's speech with much pungency of criticism, and severe, but not altogether unjust recrimination, accusing the British minister of inconsistency, contradiction, emptiness, and ridiculous arrogance, alike derogatory to his station, and the dignity of parliament. He strives to prove that France could have no interest to interfere in the matter by any acts in the nature of coercion and intimidation; and argues that Spain need apprehend nothing from that quarter, in case a war with Portugal should become ne-

cessary. He pledged himself, and all the Spanish clergy, of whom he claimed to be the organ, to stand by the king to the last extremity, in the solemn duty of repressing the revolutionary spirit which agitated Portugal, and of which Spain might ere long become the victim; and he affirmed, that they stood ready, to a man, to support the rights of the church and the throne, by every temporal sacrifice in their power. Finally, he urged the king to adopt no half measures, to make no concessions; but, if his enemies demanded either humiliation or redress, to speak, and let his voice be the signal of war. "If," said he, "they demand of you to dismiss your servants, and call upon others to take their places, do you require that that minister should be removed, who has loaded your majesty, and your heroic nation, with insults, in order to keep up that same policy which wrested from us Gibraltar, and limited the power of Spain in the new world. If they require that your majesty should acknowledge the intrusive government they have introduced into Portugal, do you demand of them to renounce their acknowledgment of the new states of America, as they are pleased to call them. If they approach our frontiers, let them there find our Spanish legions; there let all Christians commence their new crusade. Let your majesty raise

your voice, and it shall instantly be the signal for war. The standard of the cross being raised, all your majesty's subjects will flock around it; the ministers of the sanctuary themselves will take charge of the sacred ensign, and carry it triumphant to the very thickest of the enemy's ranks. There the smoke of incense shall ascend with that of the cannon; hymns of praise to the God of armies shall be blended with the cries of the combatants, and the cause of the Most High be made triumphant."

Happily for the repose of Europe, and the welfare of Spain, these frantic exhortations did not have their desired effect; but the counsels of moderation prevailed, and Ferdinand abstained from giving further aid to the followers of Chaves and Magesor. He contented himself with strengthening the army of observation, which, under the command of General Sarsfield, guarded the frontiers of the kingdom. And, ere the year expired, he had ample employment for all the resources of the kingdom, in repressing its internal convulsions.

Indeed, the active preparations for concentrating a military force upon the line of the Tagus, for the double purpose of protection against the contagion of constitutional principles, and of combating the English, if any future contingency should render it necessary.

were not the sole occupation of the Spanish cabinet during the winter. Other cares distracted their attention, as well apprehensions of the liberals, as of the party who made the name of the infant Don Carlos the rallying word of sedition. Of this we have sufficient evidence in a paper issued by Don Juan Jose Recacho, director general of the police, setting forth that there existed in his office well founded reasons to believe, that the Spanish emigrants were seeking to pervert the fidelity of the loyal Spaniards; by circulating among them incendiary and defamatory publications, aimed at the paternal government of king Ferdinand; and subjecting all persons, of whatever class or condition, with whom, after a prescribed time, any such papers might be found, to arrest and trial, as state criminals. Punishment was denounced also against any individual, in whose possession the police might detect letters or correspondence of a mysterious or suspicious nature, touching the affairs of government. Notwithstanding this rigorous measure, Madrid and the provinces continued to be filled with writings, wherein the vices of the existing system of government were portrayed in the colours they deserved, which the people secretly circulated, and read with avidity.

Malaga was the seat of a serious conspiracy, discovered late in De-

ember, 1826, whereof the alleged purpose was to proclaim the constitution. Nearly a whole regiment of infantry participated in the plot, which, but for the timely arrival of general Campana, captain general of Grenada, might have occasioned the government great inconvenience. As it was, 200 men left their colours, and retired with their arms to the mountains, to join the bands of partisans, by whom the passes were occupied. A popular commotion occurred at Malaga afterwards in the month of March, of a different character, and originating in causes which strikingly show the vices of the Spanish government at the present time. The *presidios*, or places for the confinement of galley slaves, contained four thousand of these wretched beings, who, destitute of raiment, heaped up in crowded receptacles of the worst kind, and frequently in want even of the coarse food allowed them by government, were attacked by a contagious gaol fever, of malignant type. The authorities and people of Malaga, began to dread its becoming epidemic in the city, and hastened an express to Madrid, representing the state of things to the government, and urging upon the ministry the necessity of instant measures of relief. The ministry conformably to their system of procrastination, put off to another time the consideration

of the business, leaving the terrified inhabitants of Malaga to their fate. Carried away by apprehensions, not in themselves unreasonable or ill founded, the populace began to assemble, with the design of setting the galley slaves at liberty, and thus freeing the city from the source of the contagion. The intendant of Grenada, being informed of this state of things, came post to Malaga immediately, and prevailed upon the principal merchants to make a voluntary loan to the government for the purpose of clothing and nourishing the slaves; after which two thousand of their number were removed from the *presidios* to the public works; and by these means, tranquillity was completely restored.

Some important events occurred this year, affecting the Spanish American states, which served to render their return to the domination of Spain still more improbable than ever, but without bringing home to her councils conviction of the infatuation of her conduct. During the winter of 1825-6, when Colombia and Mexico threatened to make a combined attack upon Cuba, the imminence of the danger caused the Spanish government to lend an ear, however unwillingly, to the representatives of the foreign powers at Madrid, who offered to guarantee Cuba and Puerto Rico to Spain, on condition of her acknowledging the independence of

the revolted colonies, and who declared their belief, that any longer delay in taking this step, would involve the loss of all Ferdinand's remaining American possessions. But the apprehensions of attack, and with them the inducement to immediate decision, disappeared in the course of a few months. Afterwards came the insurrection of Paez in Venezuela, which, exaggerated by rumour, and by the hopes of those who rejoiced to see the return of anarchy upon the Spanish Main, banished from the minds of government all ideas of an accommodation. They now confidently anticipated such a state of confusion in Colombia, as to facilitate their again obtaining a footing on the continent of America; or if any persons, better acquainted with the state of facts, doubted whether such was likely to be the consequence, they yet ceased to feel any immediate apprehensions for the safety of Cuba, and trusted to time, to delay, to procrastination, to bring them some uncertain benefit, they knew not what nor when. They no longer listened to any proposals for terminating the useless contest, which occasioned Spain much positive and unavoidable injury, with scarcely the possibility of any compensating advantage. Shortly afterwards, came on the affairs of Portugal: and for a while the Spanish ministers were too busily engaged in

meddling with the internal condition of the neighbouring kingdom, to think of their own proper concerns. But, in the summer of 1827, their attention was recalled to the subject, in the most disagreeable manner possible, by the accession of France and the Papal See to the number of those governments which had entered into friendly relations with the South American republics. The circumstances attending the procedure of Leo XII., appear to have created the greatest sensation at Madrid; and to that we shall here confine our remarks.

When the independence of South America was a subject of negotiation between Spain and the foreign ambassadors at Madrid, at the time we have designated, some pains were taken to ascertain the views of the court of Rome, respecting the question. In consequence of this, the Pope's nuncio at Madrid, in addition to other assurances of the same nature, addressed a note to Zea Bermudez, in which, while he reserved to the Pope the power of entertaining relations with the Americans, upon matters purely spiritual, he explicitly declared, that "the Holy See did not, and never would, acknowledge in any way the independence of Spanish America; and would make no concession to the new governments, which could prejudice the sovereignty of the king of Spain in

those countries, or injure in any way his rights and interests." Now, as the confirmation of bishops nominated by the revolutionary authorities, is manifestly an infringement of the king's prerogative, and a serious injury to his rights and interest, as claimed and understood at Madrid, the Spanish government never dreamed that the pope would violate his solemn pledge, or at least would not do so without much intervening negotiation and apology; and therefore ceased to feel any solicitude respecting the future proceedings of the Papal Sec. They knew that the pope was in favour of conciliatory measures; because his representative co-operated with the other ministers in recommending such a course; but they entertained not the slightest suspicion that he was about to act independently of Spain, until the astounding fact was officially announced. And when the information did come, it was conveyed in a manner greatly to increase the exasperation which the fact itself was calculated to produce, and inflicted a deep wound on the pride and punctiliousness of the Spaniards.

His holiness, it appears, had made up his mind that the measure itself was necessary, to prevent a religious schism in Spanish America, in addition to the political separation already existing. Many of the episcopal sees in Colombia

and Mexico were vacant, and the inconveniences thereby entailed upon the clergy, and all the interest of religion, were becoming absolutely intolerable. So intolerable was the evil, that even now the Mexicans began to speak openly and loudly of the expediency of cutting off all connexion with the pope, who, as they conceived, was unwisely sacrificing the good of the church to gratify the inveterate prejudices of Ferdinand. Leo determined, therefore, to recall to Rome the Colombian agent, who was about quitting Italy in despair of ever effecting his object, and determined to conclude an arrangement with him at once, without warning the Spanish government of his purpose. No doubt he conceived, that a long preliminary discussion of the subject would only produce angry feelings, and that a prompt and decisive execution of what he was firmly resolved upon, would be least likely to be attended with mischief. In obedience to this principle, he so timed the confirmation of the American bishops, that intelligence of it should reach the Spanish court in the interval between the departure of the nuncio for the time being, whose term of service was about to expire, and the arrival of the person appointed to be his successor. And the Spanish embassy at Rome being at the same period vacant, it was hoped the first impression created in Spain

by the news, might wear off before the slow movements of the Spanish government would allow of a new ambassador to be appointed, and the subject to be fairly brought into discussion. Accordingly, the pope addressed to the king a letter written by himself, apprising him of his intentions, and caused the letter to be sent to a temporary agent, invested with no diplomatic character, with instructions to deliver it into the king's own hands. Owing to the agent's want of acquaintance with the proper form of proceeding, the letter was presented at a public audience, and being supposed to be of no moment, was thrown aside by the king without examination, until his next interview with Mr. Salmon, the minister of foreign affairs, when the nature of its contents was discovered; breach of etiquette, abruptness, and unwelcome publicity, being thus added to all the other irritating circumstances connected with the communication.

When the facts were thus ascertained, the ministry, indignant at the gross affront of the whole affair, as they considered it, immediately despatched a courier to Monsignor Tiberi, the new nuncio, with a letter from Mr. Salmon, advising him not to enter the Spanish territory, or if he had already done so, to leave it without delay. Monsignor Tiberi had just crossed the boundary line, as it happened, and was

met by the courier at Irun, the first town on the Spanish side; and the instructions borne by the courier, as well as the corresponding orders sent to the governor of the province, being peremptory, the nuncio was compelled to return to Bayonne, there to wait for directions from the papal court how to shape his course in this unexpected contingency. Meanwhile, the Spanish ministry applied to the council of state, and the councils of Castile and the Indies, for their opinion upon what should next be done. After much angry discussion, some recommending an immediate declaration of war against the pope, and others advising to suspend the subsidies that are regularly paid to him, the moderate proposition at length prevailed, of a protest against the confirmation of the bishop, accompanied with a formal reservation of all the king's rights, being precisely the same course which was pursued by Spain when the United States set the example of acknowledging the independence of the Spanish colonies. It was also arranged, that Mr. Labrador, a diplomatist of high reputation, should be sent to Rome to accommodate the business in the best manner that the circumstances of the case would admit. The pope, on the other hand, despatched a second letter to the king, expressing the strongest feelings of respect and esteem for him person-

ally, and of regret at the misunderstanding which had taken place ; and, at the same time, solicited the good offices of Austria and France to bring about a reconciliation.

Thus far, then, every day added some fresh discouragement to whatever expectation Spain might entertain of recovering her colonial possessions. The distracted condition of all the new states of Spanish America, offered the mother country strong temptations to attempt some *coup de main* by which to regain a part of her ancient transatlantic empire. Almost any other government in the world would have taken advantage of the insurrection in Caraccas, the war in Rio de la Plata, the factions in Mexico, Central America, Chile, and Peru, at least to strike a blow in vindication of its alleged right. But the safety of the Americans consisted, partly, it is true, in their unshaken resolution to be independent, but not less in the imbecility of Spain. Whatever scenes of discord and confusion might occur in America, they could not exceed the seemingly incurable, and, to a foreigner acquainted with better things, the inconceivable system of mal-administration which prevails in Spain. At the period under consideration, Catalonia, and the whole north of Spain, was torn asunder by a species of civil war, which menaced, at one time, the stability of the throne, and left the government

neither time nor resources for distant military expeditions.

Ever since the month of August, in the year 1825, disturbances of a very serious nature, had repeatedly broken out in Valencia, Aragon, and Catalonia, which it had required the constant efforts of the government to repress. Tortosa was the centre of operations among the factions in 1825 ; and they set in motion all their resources to obtain possession of the place, but without success. Measures were taken to inquire into the causes and extent of the disaffection ; and to arrest its progress, and punish the offenders ; and for several months comparative tranquillity was restored. But in August and September, 1826, fresh indications of rebellion appeared ; and the factious individuals made another attempt upon Tortosa, embracing also the town of Pensacola in the range of their projects. They showed themselves more openly and boldly this year, than the preceding one ; and pursuing their intrigues uninterruptedly, devised a third plan for attacking Tortosa. They intended to massacre the magistrates and several other persons in the city, and to capture and pillage the fort, confiding the execution of their plans to the chiefs Trillas and Llobet. Trillas issued a proclamation in his own name, in which he made an appeal to the royalists, alleging that the downfall of the

throne was at hand, and that secret societies continued, as formerly, to infest the kingdom.

This proclamation was followed by several others, among which was one printed at Perpignan, in which the rebels professed their intentions to be, to effect the release of the king from the captivity in which they pretended he was kept. They summoned the people to arms, and announced the month of April, 1827, as the time appointed for their chief insurrectional movement. Planas, a lieutenant of infantry, was to move on the side of Manresa and Vich; and on other points the movement was to be directed by the chiefs Ballester, Dinat, Carnicer, Caballeria, Boffit, and lieutenant colonel Busson, commonly called Jeps-dels-Estangs; all these chiefs putting themselves at the head of armed bands, and publishing different proclamations. The active measures taken to repress this insurrection, caused the dispersion of the bands, and the capture of several of the leaders, who were shot. Although the movements were such as to indicate the existence of a formal and wide spread conspiracy, the government supposed, or pretended to suppose, that the only object of the rebels was, to take advantage of the disorders of the times, for the purpose of plunder. Acting upon this idea, the government, having dispersed the armed bands,

and punished some of the principal chiefs, issued a decree of amnesty, under date of April 30th, granting a pardon to those who gave up their rebellious designs, and peaceably returned to their homes. Afterwards the same favour was granted to several officers and others engaged in the insurrection, who personally solicited the royal clemency. Such is the history of the early stage of the affair, as we find it explained in official documents; and if it had gone no further, it might have deserved nothing more than a passing word, among the rest of the internal calamities which have visited the peninsula.

Either the government was greatly deceived, however, in its estimation of the nature of the insurrection, or wilfully blind to the facts. Three months had not elapsed from the date of the decree of amnesty, when the disturbances broke out anew in Catalonia; and the rebels, gathering strength daily, fixed their head quarters in the districts of Manresa, Vich, and Girona. Some of the pardoned chiefs again joined the insurgents. Jeps-dels-Estangs, especially, appeared as a principal leader; and descending from the mountains, to which his enterprises were formerly confined, into the plain, he assumed the title of general commanding the royalist forces, and levied money and assistance of all kinds from the people. The needy



the idle, and the profligate, they who had nothing to lose by confusion and civil war, and looked to the casual resources of plunder and booty for subsistence, were easily seduced by designing men, who had a deeper purpose in view, and flocked to the standard of the insurgents. Roused at last to a sense of danger by the strong representations of the marquis of Campo Sagrado, the captain general of Catalonia, the Spanish government began to prepare in earnest for putting an end to the insurrection, which every day continued to assume a more threatening aspect. A kind of manifesto was published August 31st, in the form of a despatch from the minister Zambrano, setting forth the origin and progress of the disorders, denouncing the object, and refuting the allegations of the rebel chiefs, and ending with a statement of the measures intended to be adopted, to suppress the rebellion. These measures were, the augmentation of troops of the line, to reinforce the garrisons of Catalonia; the appointment of a general officer, under the captain general, to be specially charged with the military operations against the rebels; and authorized to arm at discretion the loyal inhabitants, and call out the royalist volunteers, for the purpose of immediately pursuing the rebels, and putting them to the sword, or

reducing them to submission without delay.

As the course of events gradually became developed, there ceased to be any doubt concerning the character of the insurrection, and the motives of its primary instigators. In the accounts of the day, they have been variously termed, sometimes *Carlistas*, from their desire to transfer the crown to the infant Don Carlos, and sometimes *Agraviados*, or the Aggrieved.—They assumed watchwords, which too plainly indicated their views, even had they issued no proclamations, and performed no acts, of a decisive character. Viva Carlo Quinto! Viva la Inquisicion! Muerte a los Negros! Such were the inscriptions upon their banners, the placards they posted in public places, and the cries which resounded in the towns of Catalonia. Bands of rebels not only scoured the country, levying forced contributions, and compelling or persuading the peasantry to join them, but even threatened Puycerda, Figueras, nay, infested the neighbourhood of Barcelona itself; and on the other hand, penetrated into Castile, and endeavoured to excite the partisans of Bessieres to take up arms anew. Pasquinades, and placards, inscribed with the watchwords of the apostolical party, are said to have found their way into the interior of the royal

palace. As the rebels increased in numbers, they also acquired additional boldness, and it remained no longer doubtful, that a bigotted and unprincipled priesthood were at the bottom of the whole affair, and had taken measures for a rising in different parts of the kingdom at once, although the people in general were not aware of the resources, respectability, and numbers of the conspirators.

Early in September, estafettes daily arrived in Madrid from Catalonia, each bringing intelligence more alarming than his predecessor. First, it was announced that the main body of the insurgents were marching on Lerida and Tortosa; and it was added, had such numerous partisans in those cities, that nothing but instant succour could save them from being taken possession of, either by force or by treason. The royalist volunteers, or provincial militia, of a large number of towns and villages, joined the ranks of the Carlists. Soon afterwards, news came that Tortosa and Lerida had fallen into the hands of the rebels, who, by the end of August, amounted to 17,000 men, including a corps of troops of the line, to the number of 700 men, who, being sent from Saragossa to reinforce the garrisons of Catalonia, divided the contents of their regimental chest, separated into platoons, and proceeded by different roads to join the insurgents.

Terrified by the success and audacity of the rebels, the authorities of Villa Franca, and of some neighbouring villages, upon learning the above facts, fled to Barcelona, in anticipation of the advance of the Carlists. Confusion and terror now began to fill the north of Spain. The rebels had met with such uninterrupted success, that by the 9th of September they occupied all the mountainous region back of Barcelona, the plain of Tarragona, and all the eastern coast, and had advanced as far as Mongat, a village situated only a league and a half from the capital of the principality. It was discovered that the Agraviados had connexions with disaffected persons in Guipuscoa, Navarre, Old Castile, and Aragon; and apprehensions prevailed, not without cause, that commotions of the same kind would, ere long, extend through the whole of Spain. Nor were these apprehensions diminished by the alleged detection at Madrid of a conspiracy, having for its object, to create in Galicia and Estremadura, the same insurrectionary movements as in Catalonia.

This rebellion, it must be confessed, was of the most extraordinary description. It was a war of the church against the state, having its origin in a fanatical zeal for royalty, and the restoration of the inquisition. The insurgents professedly took up arms, not for the

sake of liberty, but for a regal government more absolute than that which appeared to them to govern Spain. They affirmed, that the king did not enjoy the power of acting as he pleased, and in their proclamation declared their object to be to release their master from captivity, and render him, what they insisted, he was not, an absolute sovereign in the most unqualified sense of the expression. This pretence proved very embarrassing to the Spanish government, because it was not easy to satisfy an army of ignorant and fanatical zealots, that the king acted free from dictation, and sanctioned only such measures as he in his heart approved. Precisely such a pretext was placed in the front ground of all their grievances by the regency of Urgel in the time of the Spanish constitution, which led to the introduction of the French armies into Spain, and the establishment of the existing government. It was the same idle pretext, that of his being a prisoner and acting under compulsion, which Ferdinand had alleged in justification of numberless acts of the basest perfidy; and the tale was taken up anew in the very region where it had wrought such wonders before. Another circumstance attending the insurrection, tended to increase the embarrassment of the ministry. The constitution had been overthrown by the machinations of the regency

of Urgel, assisted by the French, who had seized upon the story of the king's acting under constraint, as a reason for aiding a band of rebels to overturn the legitimate government of Spain. Here was the same cry, coming from the same quarter, at a time when the French armies ought, by agreement, to have evacuated the country. They who were jealous of the continued presence of the French troops, naturally asked themselves the question, whether the same game was to be played over again, and whether an insurrection, springing up on the very borders of France, was promoted by her, in order to give occasion for persisting in the occupation of Spain.

To meet and contradict the allegation made by the insurgents, that the king was oppressed by those about him, and did not possess the privilege of free agency, was one of the main objects of the manifesto or despatch to the Marquess of Campo Sagrado, of which we have before spoken. In this document, the minister of war adduced various facts in refutation of the idea, that the king was held in constraint, and the royalists deprived of their just influence at court. The prominent members of the royalist party, they who had proved their fidelity to the crown by their sufferings in its cause, by their bravery in battle, by the persecutions which they had sustain-

ed on the part of the constitutionalists, had uniformly been preferred in all appointments to office. The secular and regular clergy had been restored to their influence, and the police had passed once more into the hands of the authorities to whom it was formerly intrusted. The king himself had been re-established in the plenitude of his sovereignty; he had caused the ancient laws, and the ancient customs, to be observed, the corporations to be reinstated in their privileges, the revolutionary proprietors to be dispossessed, and the most vigorous measures adopted to preserve the kingdom against the evils of innovation. Zambrano dilated on these facts, and others of the same kind, and inferred therefrom, the senseless and miserable character of the revolution which the uneasy spirits in Catalonia had planned. Ferdinand might, indeed, most feelingly complain of those infuriated partisans of slavery and fanaticism, who, while he was sacrificing the welfare of the whole country to gratify their prejudices, and was thus rendering himself a scorn and a by-word throughout Europe and America, were now fomenting a rebellion against his government on the preposterous plea that he was a prisoner in the hands of his enemies, and must be rescued from their oppression.

Pushed into extraordinary vigour by the extremity of the danger.

which threatened to produce the subversion of the government, and to bring all the horrors of civil war upon their country, the ministry now adopted the most decisive and efficacious measures for crushing the rebellion before it became too late. General Monet was appointed to act under Campo Sagrado, against the armed insurgents.—Troops were collected from all quarters where they could be spared, to the number, it is stated, of 18,000 men, and directed to march upon Catalonia. Orders were sent to the public authorities in the principality, to raise money for the use of the troops on all the funds in the province, civil, military, or ecclesiastical, the punishment of death being denounced on all who should attempt to defeat or oppose the contribution. At the same time, it was announced that the king would afford a practical refutation of the false pretence that he acted under constraint, by leaving Madrid, and repairing to the theatre of the insurrection in Catalonia, accompanied by his brother, the infant Don Carlos.

While these arrangements were in train at Madrid, the rebels continued their operations in Catalonia, unimpeded by the local authorities, who had no power to resist them, and favoured by the people and the royalist volunteers. Whatever may have been the criminal motives and intentions of the chiefs

and instigators of the rebellion, there can be no doubt they succeeded in persuading the people that the king was actually under duress, and actually needed their succour. Their proceedings began to assume a certain degree of regularity and form, a provisional junta being established at Manresa, under the presidency of Carajol, one of the insurgent chiefs in the neighbourhood. They gained possession of this place in the following manner. Sr. Beza, the governor of the city, having gone out during the night with a patrol of royalist volunteers to traverse the streets, met another patrol of the same corps, which joined his party, and both together seized him and lieutenant colonel Conti, who commanded part of a regiment of a line stationed in the city. Afterwards, they sounded the tocsin, and commenced firing on the troops of the line, which continued until they compelled colonel Conti to write an order, commanding his soldiers to lay down their arms. Having effected this object, they gave notice to Carajol, who marched in and took possession of the square with his followers, and, as we before mentioned, set up a provisional junta in the city. Hereupon, Campo Sagrado deemed it necessary to issue a proclamation, denouncing the junta as illegal, and declaring that all persons voluntarily yielding obedience to

its orders, would be considered as violating their allegiance, and would be punished accordingly. The whole of Catalonia was in a state of open insurrection; and the rebels had obtained possession of every part of the province, except Barcelona, and a few other fortified places. They were joined by general Romagosa, who gained some distinction in the army of the faith, and had been lately governor of Mataro. And in these circumstances, they acquired so much boldness, that they did not hesitate undertaking to dictate the conditions on which they would lay down their arms, being nothing less than the re-establishment of the inquisition, and the banishment of all those who filled any office under the cortes. For, whatever might be the cause or nature of any public grievance, it was easily disposed of, by casting all the blame upon the unfortunate men, who sought to confer on their country a rational government, and who would have succeeded, had they been left free from foreign influence. Campo Sagrado estimated the number of insurgents at this time, who were armed, at 20,000 men, in a more or less perfect state of organization.

The intended departure of the king was hastened by a misfortune which befel his arms at Conca del Tren, a valley about a league from

Tarragona, where general Monet was defeated by the rebels, on the 14th of September, he being afterwards obliged to shut himself up in Tarragona, until reinforcements arrived for his relief. The news of this defeat occasioned the desertion of some of the royal troops, and the king no longer delayed his expedition, which, it was hoped, by showing to the insurgents that he was entirely free, would induce all the well disposed of the insurgents to submit to his authority immediately. The queen was appointed to be regent of the kingdom during the king's absence; and his brother Don Carlos preceded him in his journey, so as to convince the rebels that nothing was to be expected by them in that quarter. Ferdinand left Escorial the 22d of September, accompanied only by a small suite, and his private secretary, Salcedo; and lost no time in passing on to the scene of the insurrection, having taken measures to be supported by a powerful army of the best troops in the kingdom, in case their services should be needed, large bodies of men being detached from the army of observation for this purpose. His first endeavour was, either an act of extraordinary liberality, or a very poor and clumsy artifice. He invited the chiefs of the central junta established by the rebels at Manresa, to repair to Tarragona, to hold a personal conference with

him; assuring them that he would come with only a weak escort, and would send off all the military in the place to Barcelona, during the time that the conference and discussion lasted. It is not to be supposed that any persons in their situation would accept such a proposal without some better guaranty than the word of a man so destitute of good faith as Ferdinand.

His ultimate success was probably greater than he expected. Whether it was the imposing effect of an army of 20,000 men that intimidated the rebels, or whether the course pursued by the king satisfied them of his free agency, certain it is, that the rebels submitted much more readily than was anticipated. During the month of October, accounts were continually received of the submission of armed bands, and of the active pursuit of those who held out, by the count d'España, and other generals, in the service of the king. On the 5th of October, the royal decree, commanding the Agraviados to lay down their arms in twenty-four hours, on pain of being shot for contumacy, was received at Puycerda, when the town was instantly evacuated by the insurgents, who took the road to Vich. Upon the same decree being received at the last named place, the rebels continued their retreat towards Manresa, at this time the head quarters of the insurgent

chiefs. The count d'España speedily cleared Lampoureau, the district where the greatest disorder existed, of all the rebels, who were shot, dispersed, fled across the frontier, or submitted themselves to the royal clemency. Very few serious engagements occurred; and where they did, the royal troops were generally successful. Large bodies of the insurgents laid down their arms from time to time; and at length the junta of Manresa made its submission, with the exception of the president Carajol, who escaped by flight. Thus, by the beginning of November, the insurgent army had ceased to exist, having no longer any organization, any chiefs, or any centre of operations; and in fact none of its number remaining in arms, except a few scanty and scattered bands, who took refuge from pursuit in the mountains. Ecclesiastics, monks, and officers, fled into France in great numbers, never ceasing to profess the honesty of their intentions, and deeming themselves worthy of reward, rather than punishment, for what they had done.

The insurrection, as such, being now at an end, measures were taken to punish some of the prominent offenders, and to prevent the recurrence of like disorders for the future. Peremptory orders were issued to all persons, of whatever rank and condition, except nobles, and others specially privileged,

who had taken no part in the late scandalous revolt, to deliver up all their arms, of whatever description, to the bailiffs of their respective villages. Numerous executions took place at Tarragona, of individuals, whose activity in the insurrection, or whose rank, rendered them fit subjects to be made examples of public justice, although many of the criminals so executed had submitted on the faith of a promised amnesty. But the government seemed to think it unnecessary to keep terms with incorrigible rebels and disorganizers: and, therefore, showed little mercy to persons of this description. Justice was inflicted indiscriminately on clergy and laymen, notwithstanding the disposition of the ecclesiastics to insist upon their privileges, for the purpose of screening persons of their order. Four of the monks, who had participated in the rebellion, were sentenced to death by the military commission appointed for the trial of the rebels; but the archbishop of Tarragona, when required to degrade them from their clerical rank, according to the usages of the church, refused to comply. Notwithstanding his refusal, however, the priests were proceeded against as rebels apprehended in the fact, and strangled, according to the laws of the country, it being impossible, in any other way, to maintain obedience to the laws, and the constituted go-

verhment. Some commercial privileges were bestowed upon Barcelona, to conciliate the disaffected Catalonians, and *Te Deum* was sung in the churches in honour of the king's success, and thus ended the affair for the time.

But where the administration of affairs is so radically defective, and where a whole nation is thoroughly pervaded by faction, poverty, misrule and corruption, it is not the suppression of a single insurrection, or the execution of a single band of rebels, which can suffice to restore public tranquillity. Nothing but a complete revolution in the entire system, and the sub-

stitution of a firm, but moderate and equal government, in place of the present combination of despotism and anarchy, of violence and weakness, will renovate the fallen fortunes of distracted Spain. Whether this can be effected by the internal resources of the Spaniards themselves may be doubted. Had Spain been left free from foreign interference, after the fall of Napoleon, the high-minded citizens who then obtained the direction of affairs, might have gradually produced a state of qualified prosperity, such as the people of that unhappy country have long ceased to enjoy.





## CHAPTER XVIII.

*Greece and Turkey.—Janissaries—Attempts to reform them—Resumed by Mahmoud—The Topschis—The new regulations—Insurrection of the Janissaries—How repressed—Conflagration of Constantinople—New troops—State of Greece in 1826—Siege of Messolonghi—Miaulis and the fleet—Events of the siege—Fall of Messolonghi—Summer of 1826—Assembly of Epidaurus—Commission of government—Third National Assembly—New government—Capo d'Istria elected President—His character—Sir Richard Church and Lord Cochrane—Greek loans—Enterprises of the Turks—Samos—The Morea—Athens invested—Karaïskaki—Disturbance at Hydra—Frigate Hellas—Greek army in Attica—Turks massacred—Karaïskaki's death—Battle of the Acropolis—Offers of capitulation—Surrender—Disturbances at Napoli—Cochrane's movements—State of Greece, July, 1827—Greek pirates—Contributions—Protocol of St. Petersburg—Negotiations at Constantinople—Manifesto of the Porte—Treaty of London—Negotiations—Battle of Navarino—Effects on Ibrahim—Upon the Turks—The ambassadors leave Constantinople.*

ALONG the eastern extremity of Europe, events of the highest importance, and deepest interest, have lately been hurrying on with fearful rapidity of succession. The total revolution effected in the character of the Turkish army—the fall of Messolonghi—the prostration of the Greeks before the Egyptian forces—the interposition of the allies, consummated by the decisive battle of Navarino; such are prominent points in the history of that quarter of the world, which, resuming the thread of our narrative in the proper place, we now proceed to relate.

Taught by fatal experience during the Greek war, of the inefficacy of the present organization of his army, the well aware of the turbulent and dangerous disposition of the Janissaries; animated also by the success of the pacha of Egypt, in 1826 sultan Mahmoud zealously undertook, and resolutely accomplished, the reformation of his whole military force. He was aware, that some knowledge of the tactics of modern European war-

fare was essential to the salvation of the Turkish empire, and a more rigid subordination, and sterner discipline among the troops, equally essential to the stability of the reigning dynasty. The haughty attitude assumed by Russia in the late negotiations at Ackermann, not less than the obstinate resistance of the Greeks, proved the former fact. The growing insolence of the Janissaries clearly established the latter. This celebrated militia had for centuries composed the main force of the armies of the Porte. Once they had been as famous for their courage, and their victories, as they now were for insubordination and corruption. These Prætorian bands of Turkey had, in fact, rendered themselves masters of the sultan and the government, not less than chosen champions of the empire. They deposed the Ottoman emperors at will, and continually bartered away the crown, to him who would bestow the richest largesses and greatest privileges in exchange. Being recruited from the very dregs of the populace, they were distinguished by the inveteracy of their prejudices against every salutary innovation, and lost all the merits of a barbarian soldiery, in the dissolute round of revolt and riot, which formed their chief occupation. They were no longer the bulwark of the Mahometan religion against the encroachments of sur-

rounding Christian powers. Their fanaticism regarded all improvements in discipline, equipments, arms and tactics, as heresies from the true faith; and of course they had ceased to be capable of withstanding a modern army, appointed and manœuvred according to the usages of the states of christendom. Every maxim of policy, every principle of self-preservation, dictated the expediency and necessity of substituting a regular force for the undisciplined rabble, which now bore the name of a Turkish army.

A serious attempt to effect the object had already been made, within the present century. The remains of the garrison which defended St. Jean d'Acre so bravely, were formed by the sultan Selim into a body of troops called Nizamy-Gedid, or soldiers of the new regulations, who signalized themselves in Bulgaria and Roumelia, and rendered the advantages of European discipline apparent. But the jealousy of the Janissaries, combining with the fanaticism of the people, compelled Selim to disband the Nizamy-Gedid in 1807. Their entire dispersion, the dethronement of Selim, the short reign of Mustapha, and the succession of the present sultan, Mahmoud, quickly followed, and thus one attempt completely failed of success. Afterwards an endeavour was made to attain the same object, by organizing se-

fect companies, called Scymens, among the Janissaries themselves; but this likewise proved abortive, and the Ulemahs even denounced the vengeance of the prophet against all who should again propose to introduce the discipline of the Frapks into the Ottoman army.

But the lapse of twenty years, and the dear bought experience of the existing wars, had produced a visible change in the views and feelings of all but the Janissaries. Mahmoud had seen his best troops routed by the half armed and unpaid insurgent soldiery of Greece, while the latter had, in their turn, speedily fallen before Ibrahim's Egyptian troops, whose chief excellence consisted in their amenableness to discipline, and their knowledge of European drill and tactics. The sultan, therefore, conceived a plan for remodelling his army; and after consulting with the dignitaries of the empire, and heads of religion, and assuring himself of their hearty support, he set about preparing his measures with secrecy and despatch. He was ably assisted in this design by the seraskier Hussein Pacha, an officer of great decision of character, and popular on account of his many victories, who commanded the Topschis, or artillerymen. This corps amounted to 14,000 men, and was necessarily organized, in some degree, after the European model, because the nature of such

force hardly admits of any other form of discipline. The sultan commenced his operations by enlarging this corps, to which he looked for support against the Janissaries, in case, as there was every reason to anticipate, the contemplated changes should encounter any formidable opposition. The Topschis well knew that they were hated by the Janissaries, and that nothing but Mahmoud's success could insure their own existence.

Having taken these preliminary steps, in the beginning of June, 1826, Mahmoud commenced his intended operations. The new regulations, promulgated by him, required that a certain number of men should be selected from each company of the Janissaries, and enrolled to form the nucleus of a new army, intended to be drilled in the European exercise and tactics. Additional pay was promised the soldiers belonging to this new corps, whose designation, and uniform, and appointments, were all studiously selected, so as not to offend the dangerous prejudices of the people and the old army. The officers of the Janissaries were all sworn to maintain the new system, which was solemnly consecrated by the Ulemahs, in presence of the troops and the assembled multitude of ordinary spectators. Some hope was entertained, in these circumstances, that the Janissaries would peaceably acquiesce in the

change. But the deportment of the new recruits speedily undeceived those, if any such there were, who had anticipated a bloodless reform in the army, and the event justified the precautions of the sultan, in preparing to meet an explosion.

Signs of approaching insurrection first appeared, Jan. 14th, when the Janissaries began to assemble in groups, plainly contemplating some concerted movement of importance. The actual revolt commenced at midnight, by the march of a troop of the mutineers to the hotel of the Aga of the Janissaries, for the purpose of murdering him; but he having found means to escape from their search, they gratified their revenge by pillaging his household, and committing outrages upon his family. They made the same attempt upon Nedschib Effendi, the agent of Mohammed Ali Pacha; but happily, with no better success; for he also had escaped. Meanwhile, another body of the rebels had attacked and pillaged the palace of the Porte, which the grand vizier abandoned at their approach. And at day-break the Janissaries, who were in the barracks, carried their camp-bettles to the square of Atmeidan; and caused proclamation to be made, that every man belonging to their order should repair thither as the place of rendezvous.

But the sultan resolutely en-

tered the gathering storm, and showed himself fully equal to the occasion. He instantly left his summer palace on the European shore, and repaired to the seraglio; and in a short time, the grand vizier, with the great officers of state, the mufti, and the principal Ulemahs assembled at a pavilion in the neighbourhood. Here they waited until the requisite troops were marched up to the aid of the sultan. These had been collecting under the orders of the Aga, of Mohammed Pacha, commander of the Asiatic camp, and of Hussein Pacha. Their effective force consisted of a large body of cannoneers and bombardiers, with ordnance from the batteries of Tophana. Stimulated by the pressure of the emergency, Mahmoud himself superintended the preparations in person. All true believers were summoned to arms by proclamation throughout Constantinople and the suburbs; and the sacred standard of the Prophet, reserved only for extraordinary occasions, was unfurled, as the rallying point of those who chose to adhere to religion and the throne; and they were not slow in thronging to the defence of the sultan against the revolted Janissaries.

Having now concentrated a force which he knew to be sufficient, Mahmoud summoned the mutineers to repair to the standard of the prophet, in token of their submission to

his will. But although three times summoned to obey, the Janissaries obstinately refused to do so, unless the sultan abolished the new regulations, and sacrificed the grand viziers, Hussein Pacha, the Aga, and Nedschib Effendi. Disdaining to temporize any longer, Mahmoud ordered his troops forthwith to march upon the mutineers, and treat them as public enemies, put out of the protection of law by the mufti's *fetwa*. His attendants with difficulty dissuaded him from leading on the assault in person. This duty was intrusted to Hussein Pacha. He marched in upon the rebels, with an impetuosity which they found it impossible to withstand, drove them into the barracks, which he battered with cannon shot and bomb shells, and completely defeated and dispersed all who escaped from the flames of the burning barracks, and survived the dreadful slaughter of the battle. The fugitives were pursued, taken, tried by a military commission, which held its sittings beneath tents on the Atmeidan, and executed or sent to imprisonment without delay.

These events released the sultan from all inducements to deal gently with the Janissaries, and probably furthered his ulterior object of entirely reforming the discipline of his army. On the 16th of June, he issued a proclamation, denouncing the Janissaries as inveterate and incurable rebels, abolish-

ing the name and the order, with all its distinctive badges and privileges, for ever; and decreeing the formation of new bodies of regular troops, by the appellation of *Askeri-Muhammedije*, victorious soldiers of Mahomet. To complete the annihilation of the hated class, their barracks were demolished, and their insignia trampled under foot by the mufti, and destroyed. All the posts previously occupied by them were committed to the custody of artillerymen, or *bostand-schis*. Not only were the Janissaries themselves pursued with relentless fury, and so soon as apprehended, handed over to the executioner; but all who had any connexion with them, or expressed any sympathy for their fate, were involved in the same unsparring proscription. Thousands of porters, pumpers, and watermen, who in times past had made common cause with the Janissaries, and had not been idle spectators of the late troubles, were shipped off to Asia, and banished for ever from Constantinople. All who harboured the proscribed individuals, or gave the slightest cause of suspicion, inevitably incurred the punishment of death or exile. By such measures of prompt and merciless Turkish vengeance, the tranquillity of the capital was effectually secured for the time.

But notwithstanding the vigilance of the police, disaffected indi-

viduals remained in the city, who, although intimidated at first, yet in a month or two, began to acquire boldness, in spite of the indiscriminate use of the axe, bow-string, and drowning, which almost desolated the streets of Constantinople. At every symptom of discontent, multitudes were instantly sacrificed; whether guilty or not was less material, when the primary purpose was merely to strike terror among the disorderly populace. But on the 31st of August, a most destructive fire broke out in Constantinople, which, as it appeared simultaneously in opposite and distant quarters of the city, was generally ascribed to the vengeance of the disbanded Janissaries. The day had been fixed for taking down the sacred standard, and replacing it with great ceremony in the apartment allotted for the preservation of this and other precious relics of the prophet. The conflagration raged for thirty-six hours, notwithstanding all the efforts made by the government to arrest its progress, and consumed houses to the number of six thousand, making nearly an eighth part of this extensive city. The immense magazines known by the name of khans, baserains, and tscharschia, and the hotels of most of the great officers of the empire, including the palace of the Porte, which the grand vizier occupied, were reduced to ashes, and an enormous quantity of public and private property devoured

by the flames. To prevent seditious or evil disposed persons from taking advantage of the confusion of the inhabitants, and pillaging goods, or otherwise aggravating the calamity, a large body of troops was drawn up in the seraglio, in order of battle, and all the streets were occupied by parties of soldiers. The government left nothing untried, which could diminish or relieve the sufferings of the people, rendered houseless, and homeless, and reduced to indigence in multitudes by the unsparing element. And relying perhaps partly upon the consternation which this calamity occasioned all over the city, after the fire had ceased, the sultan broke up the camp, which had been maintained in the interior of the seraglio since the 15th of June; and the grand vizier, with the other ministers of state, fixed his residence in the former palace of the Aga of the Janissaries.

Meanwhile, during the summer months, the government had actively pursued the plan of changing the discipline of the army. So effectually and expeditiously had the mutiny in the capital been suppressed, that the Janissaries in the provinces generally submitted without resistance to the orders of sultan Mahmoud. The imams in all the mosques, publicly read the imperial firman, which explained the state of affairs, and enjoined implicit obedience to the new regula-

tions. Every where camps were formed to drill the troops in the discipline of the Franks, under the direction of Egyptian officers, and with the help of translations hastily made from such European books as were accessible to the Turks. All the barbarous energy of despotism being put in requisition to attain the object in view, upwards of twenty thousand troops in Constantinople and its environs, had acquired the new discipline before the end of the year. Occasional disturbances occurred in the course of the autumn, which the sultan quelled by means as desperate as they were effectual. Spies of either sex, disguised so as to pervade the whole city, without being known as such, quickly denounced to the government every murmur of discontent or sedition. The punishment of instant death was inflicted, after the fire, upon all persons who spread sinister reports concerning the government, or spoke of the public affairs. If men they were executed upon the spot where they were seized ; if women, they were strangled, and thrown into the sea. Nevertheless, the Janissaries made another attempt to produce disorder by setting fire to the city in October, and availing themselves of the occasion to effect a junction with the malcontents on the European side of the Bosphorus. The government detected this plot, which ended in the execution of one

thousand five hundred of the keepers of the imperial sheep-folds, who were implicated in the conspiracy, and the banishment of all the rest of that class, whilst orders were sent to the pacha of the Asiatic side to exterminate the Janissaries, wheresoever found.

Leaving this scene of horror, we now pass to the theatre of the war, where the Greeks had not suffered the less for the desperate struggle carried on in the capital, between the Janissaries and their unforgiving master. We closed our account of events there in 1825, with the relief of Messolonghi in August, and the unsuccessful attempt of the Greeks upon the Egyptian fleet, in the harbour of Alexandria. Soon afterwards, general Goura recovered the important position of Salona, which the Turks had recently captured ; in consequence of which the seraskier Redschid retired to Vrachori, to be more certain of retaining his communications with Arta. We left Ibrahim Pacha at Calamata, having concentrated his forces upon Tripolizza, waiting for reinforcements from Egypt. Miaulis made strenuous efforts to assemble a sufficient fleet to prevent the debarkation of the expected troops and stores ; but owing to unexpected disputes, the squadrons of Spezzia and Ipsara did not join him ; and he was compelled to sail to the gulf of Lepanto, with not a but the Hydriot vessels. He



fell in with a large division of the combined Turkish and Egyptian fleet off Clarenza, late in November; and although he easily defended himself against their unskilful attack, yet his force was too feeble to undertake any offensive operations, especially on account of the absence of the Spezziot fire-ships. Accordingly, the Turkish fleet safely arrived at Patras, and landed 6000 fresh troops to reinforce Ibrahim's army. With part of these troops he sailed up the gulf, and defeated a detachment of Greeks who were marching to succour Messolunghi; and then returning, he joined the seraskier, and they proceeded together to resume the blockade of that place by sea and land.

Messolunghi, therefore, was now once again closely invested by the Egyptian army, assisted by Albanian mercenaries under the command of Redschid Pacha. Great jealousy existed between the Albanians and Arabs, the Albanian chiefs being suspected and accused of favouring the besieged Greeks. In consequence of this, a division of duty between the two armies was adopted, Ibrahim and his Arabs conducting the operations of the siege, while the Albanians were stationed in the outposts, and encamped apart from the Egyptians. Until February nothing of consequence took place, the troops being employed in forming the batteries,

transporting shot, shells, and ammunition, to the camp, and in cutting fascines to fill up the ditches. For this laborious service the hardy Arabs proved much more competent than the Albanians, notwithstanding the inclemency of the weather, and the constant hardships to which they were necessarily subjected. Most of the shot and shells for the siege were transported on Crio Nero to the camp, a distance of four hours' march, upon the heads of the Arabs. Ibrahim occasionally fired a few shots from the batteries, or threw shells into the town, during this period, but was mainly engaged in preparations for a determined attack.

Meanwhile, Miaulis had spared no exertions to impede these preparations, and prevent the fall of Messolunghi, an event which he knew must be fatal to the hopes of the patriots in Western Greece. Unless he could open the harbour by a successful attack upon the Egyptian fleet, the fate of the town was inevitably sealed. He succeeded at length in bringing up the Spezziot and Ipsariote squadrons, and appeared off the gulf of Lepanto, January 20th, with all his fleet. Two days afterwards the hostile squadrons encountered each other, but were separated by the violence of the easterly winds. Another engagement took place the 27th, in which the Turks lost a frigate and corvette. But all this

## GREECE AND TURKEY.

did little towards raising the blockade, and, therefore, without following all the partial attempts of *Mianis* to drive the Turkish ships from their position, we may state, once for all, that his endeavours throughout proved entirely fruitless, and the garrison received no effective aid from the fleet of their countrymen. All things being prepared in the camp of the besiegers for a vigorous attack, the capitan pacha sent a message to the Greeks by the captain of the British ship of war *Rose*, offering to the garrison terms of capitulation. The Turkish army exceeded 20,000 men, of whom 8000 were disciplined Egyptians, with batteries managed by Neapolitan and Piedmontese engineers. The garrison, on the other hand, consisted of less than 2000 men, whose efficient force was a body of Souliotes commanded by *Noto Bozzaris*, a brave old man of a family of heroes. Acting under the advice of their general, the garrison resolved to hold out to the last; and they replied to the capitan pacha, that they stood ready to defend the town to the last drop of their blood, and that they trusted to repel Ibrahim now, as they had the *seraskier* before him. This answer, of course, put an end to all hopes of accommodation, and the parties prepared for the approaching encounter.

At length Ibrahim opened his batteries upon the town in February, and maintained a continued

bombardment until the 28th of the month, when he commanded a general assault, in which, after a desperate contest, he was repulsed with the loss of 3000 men. A few days afterwards he was again repulsed in a similar assault. Checked, in some degree, by these reverses, Ibrahim now began to bend his attention to the slower, but also surer method, of starving the besieged into submission. By means of a fortress on the small island of *Vassiladi*, the garrison of *Messolonghi* received provisions in small vessels from *Zante* and *Cephalonia*. Ibrahim obtained possession of this fortress on the 9th of March, and on the 13th he gained the island of *Anatolico*; so that his fleet had thus full control over all the waters of the harbour, and excluded all succour of whatever description, from approaching *Messolonghi*. Impatient, however, to attain his object, Ibrahim repeatedly attacked the town by land and sea, in the most furious manner, between the middle and the end of the month. But the desperate and devoted courage of the little garrison baffled all his attempts. In the last of these sanguinary engagements, Ibrahim led on his troops himself, and succeeded in penetrating a considerable distance, but he was resisted by the garrison, entrenched behind a rampart of hogsheads filled with sand, and once more was repulsed, with

a sacrifice of 2000 of the bravest of his followers.

After this, Ibrahim contented himself with converting the siege of the place into a close blockade, and patiently awaiting the effects of famine in compelling the garrison to surrender. Yet, notwithstanding the wretchedness of their condition, the garrison of Messolonghi continued to hold out with most indomitable resolution. On the 2d of April, Ibrahim summoned the Greeks to surrender, engaging to save their lives, and to allow them to proceed where they pleased within the limits. But they resolved, with truly Spartan spirit, to die rather than voluntarily give up a post which they had so long defended. Their countrymen secured to have abandoned them to sure destruction : or rather the numerous forces of the seraskier by land, and the blockading fleet by sea, rendered it absolutely impossible for the Greeks, with the scanty resources which they possessed, to relieve the heroic defenders of Messolonghi. Their final resolution was taken, to cut their way through their besiegers, or perish in the attempt ; and they turned a deaf ear, therefore, to the offers of capitulation, which Ibrahim renewed on the 21st of April, when the garrison and the whole population of the town were suffering all the worst horrors of actual famine. It is impossible not to admire the

heroic self-devotion of these unfortunate men, who emulated, in some degree, the conduct of the celebrated inhabitants of Numantia on a like occasion. And the appalling fate of the people of Messolonghi themselves, is only less dreadful than the desperate self-sacrifice of the Numantines.

The plan adopted by the garrison and people of Messolonghi, was such as absolute despair alone could have dictated. The men capable of bearing arms, were to endeavour to force their way through the besieging camp, in which they calculated to succeed, by the help of an attack to be made simultaneously by a band of Ronnehots in Ibrahim's rear ; and desperate as the attempt was, they entertained no hopes of safety but by these means. At the same time, such of the old men, women and children, as could not participate in this daring enterprise, chose a voluntary death, rather than submission to the merciless ranks of Arab savages. Undermining part of the town, and charging the mines with gunpowder, they prepared to bury themselves and their enemies in common destruction. At the appointed time, the surviving population of Messolonghi was assembled. There remained 3000 soldiers, 1000 artificers, or other men unused to fighting, and about 5000 women and children. Many of the women, who imagined them

selves strong enough to brave the fatigues and danger of the sortie, dressed themselves in male attire, in order that if they should be unable to escape the enemy, they might be mistaken for soldiers, and put to death on the spot. Some of them wore concealed daggers, with which to defend themselves if attacked, or at least, to secure their bodies from violation or servitude. Of the sick, aged, and infants, a large crowd occupied the powder magazine, where the private Capsalis, stood ready to apply the match when the barbarians should arrive.

Unfortunately, Ibrahim obtained intelligence of their design, and when the garrison sallied out on the 22d of April they found the Turks and Egyptians prepared to receive them at every trench and battery. Regardless, however, of the danger that impended, the Greeks rushed upon the besiegers, and although multitudes fell of course in the unequal contest, yet, 800 of the most resolute actually cut their way through, and joined Karaiskaki and his Roumelioti in the mountains. Amid the confusion of the sack of the town, the mines were sprung but imperfectly; and the inhabitants did not meet the instant and undistinguishing death which they desired. But a body of the barbarians, who rushed to the powder magazine, expecting to find the wealth of the

inhabitants deposited there, met the fate they deserved in the opportune explosion of the building, by the voluntary act of the self-devoted Capsalis, and his unfortunate companions. It would be ungrateful to describe, and it is easier to imagine, the shocking scene of carnage and pollution which ensued, when the lawless Egyptians were let loose upon the defenceless relics of the population of Messolonghi. Suffice it to say, that the male population above the age of twelve years, was put to death on the spot, and the women and children who survived the horrors of the occasion, to the number of 3000 and upwards, were sold into slavery. The plain from Messolonghi to the mountains, was literally strewed with dead bodies; and to prevent infection, it was necessary to collect the bodies of the slain in and about the town, pile them up in heaps, and consume them by fire. Thus ended the siege of Messolonghi, an example of endurance, courage, and self-devotion, which must stand pre-eminent in the pages of history to the latest memory of man.

The siege of Messolonghi had made so great an inroad upon the resources of Ibrahim, that he now returned to the Morea, to recruit his shattered forces. Napoléon de Roumania still remained in the hands of the Greeks; and Ibrahim appeared unwilling to attempt the

reduction of it at present, and contented himself with adding to the strength of Tripolizza, and guarding against the enterprises of Colocotroni. The Roumeliots under general Goura, took refuge in Athens, after the fall of Messolonghi, where they were closely invested by the Turks. But while the Greeks attempted in vain to raise the siege, the enemy was equally unsuccessful in his attacks upon the Acropolis. In this manner the residue of the summer passed away, without any military enterprise of moment being accomplished upon either side. Indeed, the struggle which preceded the fall of Messolonghi, seemed to have occupied all minds, while it depended, and to have left both parties disposed to remain for a time comparatively inactive. For the unsuccessful descent of colonel Fabvier in Eubœa, towards the end of March, and of a band of Albanians in April at Bairout, in Syria, do not require particular notice, because they stood alone, and led to no important results. And ere we resume the history of the military operations subsequent to the fall of Messolonghi, it is material to understand the state of the Greek government, and the measures taken to heal those continually recurring dissensions which, crippled every exertion of the insurgents.

At the time Messolonghi was destroyed, the national assembly of

the Greeks was sitting at Epidaurus. So untoward an event was well calculated to fill any government with dismay; much more the feeble body, which presided over the broken fortunes of Greece. Reduced by the chances of war, and the faults or follies of themselves and their predecessors, to a state of melancholy imbecility as a government, they still endeavoured to maintain among their countrymen that unquenchable flame of liberty which warmed their own breasts. Their proclamation, issued on occasion of the late successes of Ibrahim, was touching and solemn. "When we descended into this great arena," they said, "we proclaimed in the face of God and man, our determination to die with the cross before us, and our weapons in our hands, rather than live as slaves without a religion, without a country, a scorn and an opprobrium to neighbouring nations. Although God in his wisdom has subjected us to latter trials, he has never forsaken us during our long and arduous struggle; and testifying from the bottom of our hearts our deep gratitude towards an omnipotent Providence, we again proclaim in the name of the Greek nation, its unanimous resolution to live and die amid the chances of war, rather than cease to struggle for the deliverance of Greece. For that object we have long beheld, and still behold, tran-

quilly and unyielding, our cities and villages deluged with blood, our fields made a wilderness, thousands of our fellow citizens dragged to slaughter, to slavery, to pollution worse than either. The representatives of the Greek nation consider it their duty to proclaim these things openly to those who are attached to the name of Christ, and whose hearts beat responsive to the generous sentiments and unchangeable resolutions of the Greek people. They entertain a fervent hope that the monarchs of Europe, who exercise dominion under Christ, convinced of the equity and justice of their contest, will, in this appalling hour, cast an eye of pity on an unfortunate nation, whose sufferings arise from their professing and maintaining the same creed with the rest of Christendom."

After this, the national assembly separated, having vested all the powers of government provisionally in an executive commission of eleven persons, and a committee consisting of thirteen of its own members. This government exerted itself to collect provisions for the few regular troops in the fortresses and elsewhere; and to allay the jealousies and dissensions which never ceased to appear among the chiefs. Meanwhile discussions arose respecting the kind of government, which the exigencies of the country required, and the individuals

who should compose it. At the time the provisional government was appointed, it was expected that its functions would expire in August, when the national assembly should be reassembled. Elections were accordingly made for a congress, expected to be convened at Poros, with as much regularity as existing circumstances would allow. But unfortunately the adverse parties came to an open rupture; Conduriottis, Colocotroni, and their friends, meeting at Castri, whilst the provisional government and another body of the delegates assembled at Egina. Colocotroni and his party refused to acknowledge the executive authority, alleging that their powers expired at the time contemplated in the resolution; whilst the members of the government, on the other hand, claimed to continue in office until their successors should be regularly appointed. A majority of the primates and chiefs repaired to Egina, where the provisional government was; but still not in sufficient numbers to constitute a quorum. Thus, amid all the sad reverses which desolated Greece, the sickening spectacle was exhibited, of insane civil dissension, and of two bodies, each assuming to be the rightful government of the country, yet neither possessing a strictly legal authority. Their union was not effected until the 8th of April. It took place at Dimala, owing in

no slight degree, to the intercessions of lord Cochrane, of whose arrival in Greece, we shall presently give an account; and the government immediately proceeded to Poros, as a neutral point, unobjectionable to both parties. George Sissinis, as president of the assembly, addressed a proclamation to the Philhellenic committees of Europe, dated March 15th, 1827, warmly thanking them for the zeal they had displayed in the cause of Greece, and entreating them not to abate their generous and sympathetic exertions. Notwithstanding their disputes, they agreed upon a constitutional charter for Greece; and in organizing the government, they manifested a degree of prudence and discretion which was hardly to have been expected from their initiatory proceedings.

They vested the executive authority in a president, to be chosen for seven years, and selected for this perilous office count John Capo d'Istria, making the choice, however, conditional upon the approbation of England. Until it could be ascertained whether the English government would approve the selection, and whether Capo d'Istria would accept a charge so difficult and dangerous, a committee of administration was appointed, consisting of three members and a secretary, all of them new in the government, and respectively so se-

lected as to represent the three great interests of Greece: namely, George Mavromichalis, of Maina, son of Petro Bey, for the Peloponnessus; John Mikotis, of Ipsara, for the islands; and Jannuli Nakos, of Livadia, for Roumelia. The secretary was Glarakis, a Sciot, educated at the university of Göttingen, who had filled the same office under the preceding government. On the 28th of June this commission of government left Poros and removed to Napoli di Romania, from which its subsequent acts are dated.

The selection of count Capo d'Istria to preside over the Greek nation, is universally considered an event of so much importance, that some account of his character and history properly falls within our plan. He was born at Corfu, in the year 1776, of a family ranked among the first class of citizens in the Ionian isles, and after an accomplished education at the Italian universities, entered into public life in his native country in 1800, and was employed in various distinguished offices. In 1807, the island of St. Maura being threatened by Ali Pacha, the Ionian government invested him with the powers of commissioner extraordinary upon the frontiers, and placed under his orders the military force of the seven islands. In this campaign his personal relations with the Greek patriots commenced, and

he became favourably known to Colocotroni, Bozzaris, Karaiskaki, and other chiefs of note. In 1808 he was invited to repair to St. Petersburg, to be employed in the foreign department; and from that time until the year 1822, he continued in the Russian service, performing the highest and most confidential duties around the emperor Alexander. He discharged the functions of chief of the diplomatic department attached to the army in 1813, 1814, 1815, and, of course, bore a principal part in all the negotiations of that momentous period. In the reorganization of the Helvetic confederacy in 1813, at the congress of Vienna, during the conference at Paris in 1815, and at Aix-la-Chapelle, count Capo d'Istria represented the interests of the most potent of the great allied powers. From 1816 to 1822, he filled the office of Russian secretary of state for foreign affairs. From this brief sketch of his history, our readers can judge, not only of the opportunities he enjoyed for acquiring extensive experience as a statesman, but of the high capacity, which raised him through the elevated stations, to the notice of the patriotic representatives of Greece. Had they chosen him for president at an earlier period of the struggle, his talents, experience, personal influence, and weight of character, might have united the resources of the nation, and accele-

rated their deliverance from the Turkish yoke.

For a few years past, count Capo d'Istria has been residing in Switzerland, in honourable retirement. He was on his way through Paris to Russia, when he received intelligence of the high honour done him by his countrymen. In St. Petersburg he received from Nicholas a discharge from the imperial service, couched in terms which clearly testify the high respect he had acquired in the discharge of his public functions in Russia. Of course England approved of the appointment. Capo d'Istria's answer to the official notification of his election, is dated at London, in August, 1827. In giving the provisional government assurances of his entire devotion to the cause of Greece, he communicated information of the steps he had hitherto taken to promote that cause. On hearing of the embarrassed condition of the government, which had induced them to contract a loan in the Ionian islands, he immediately contributed his private fortune, and called on the Greeks who possessed wealth in foreign lands, to succour their bleeding country. These measures produced such temporary resources as to supply the immediate pressing wants of the provisional government. But he was more earnestly, and as the result shows, more effectually engaged, in persuading the great European



powers to put a stop to the further effusion of christian blood in unhappy Greece, as will be fully explained in the sequel. At the courts of St. Petersburg, London, and Paris, in succession, he is supposed, with good reason, to have applied all the force of his character and talents to the great task of reconciling them to a departure from the strictness of rigid neutrality in respect to Turkey. He finally left Marseilles for Greece early in September, to assume the personal direction of affairs, not long before the great *dénoument* of the destructive battle of Navarino introduced new parties upon the scene of action, and opened a new series of political combinations.

But, ere the happening of this mighty catastrophe, the spirit of the patriots had been severely tried. Their military and naval operations claim our first attention, next to the organization of the government. No small share of the real administration of the country fell into the hands of two English officers, Sir Richard Church, and Lord Cochrane, from whose accession to the cause of Greece, much more was anticipated than they ever proved able to accomplish. Sir Richard Church had the reputation of being an able, as well as experienced officer, and although the resolution proposed in the national assembly for

appointing him to the supreme command of the Greek army, encountered some objections, yet a conviction of the necessity of such a measure, seems to have overcome the opposition. The friends of Greece affirmed, that if any man could improve the land service of Greece, Sir Richard was peculiarly fitted for the attempt. But the obstacles which he had to contend with were neither few nor slight. The want of all resources for carrying on war, the rapacity and hickerings of the chiefs, the impoverished state of the country, the distress prevailing among the soldiery, heightened by the absence of any thing like regularity or military system in the organization of the army, and the immense preparations continually made by the Turks and Egyptians, presented a combination of difficulties, which might have subdued all ordinary resolution. But general Church entered upon the arduous duties of his appointment, under the inducements derived from long cherished interest in the cause of Greek independence.

Upon the return of Lord Cochrane from his adventurous and successful career in South America, he expressed a willingness to engage in the service of Greece, if adequate resources could be placed at his command. In consequence of this, a loan of 2,000,000*l.* sterling was contracted in London by

two Greek deputies, Messrs. Orlando and Iarriottis, the main object of which originally was, to equip a naval armament of adequate strength, to act with efficiency against the large force of the Turks in the Mediterranean. Two sixty gun frigates were to be built in the United States, and five steam vessels in England, which were all to have been ready for active service in the autumn of the year 1825. Lord Cochrane was engaged to set sail in November, 1825, and spent month after month in vain expectation, lingering about the shores of Italy and France; but it was not until the very end of 1826, that one steam-boat and one frigate arrived in the Mediterranean, in compliance with the contracts. Had the whole armament been equipped in season, it might, and it is hardly to be doubted that it would, under the conduct of a gallant and enterprising officer like Lord Cochrane, have prevented the fall of Messolonghi.

But a series of shameful frauds and gross errors in management, dissipated the proceeds of the loan, so that Greece obtained little benefit from what might, if rightly used, have proved her salvation.

Notwithstanding the disappointment of Lord Cochrane at these untoward circumstances, he proceeded to Greece, and fortunately, as the first fruits of his presence, effected a union of the two Greek

assemblies, and thus prepared the way for the eventual organization of the government. His resources in money consisted of a small sum placed at his disposal by the French and Swiss *Philhellènes*. He declared to the national assembly at Aegina, that he was come to devote his talents and his blood to the service of Greece, provided he could be appointed to the chief command of the fleet, which authority he considered essential to his being of any utility in the war. The Hydriots did not seem inclined, at first, to surrender the supremacy, which, by one means and another, they had gradually exercised in the marine operations of the Greeks. But, finding Lord Cochrane fixed on this point, they at length consented, and he was appointed high admiral of the naval, as Sir Richard Church was commander-in-chief of the land, forces. At Aegina, he received a deputation from the Hydriots, presenting to him the good wishes of the island, and signifying the anxiety of the inhabitants to see their navy reorganized under his direction. Lord Cochrane lost no time in fitting out an expedition to co-operate with the land forces, under Sir Richard Church, these two officers exhibiting a salutary example of perfect concert and harmony in their measures for annoying the enemy. His proclamation to the Greeks, upon commen-

cing operations, is dated on board the frigate *Hellas*, April 14th, 1827, having a squadron composed of the frigate *Hellas* as flagship, the steam ship *Kateria*, a brig and schooner brought by himself, and four vessels chosen from the Hydriot fleet,—all prepared for an expedition.

These proceedings, although some of them are in anticipation of the course of our narration, we have thrown together for the better understanding of the whole matter. Returning now to the seat of the war, in the summer of 1826, we find that the efforts of the Turks were directed to three objects, namely, first, to subdue Samos, one of the largest and richest islands remaining in the possession of the Greeks; secondly, the reduction of Athens; and lastly, the prosecution of the advantages they had already gained in the Morea. The expedition against Samos was commanded by Topal Pacha, who, having taken on board troops in Asia Minor, sailed for the island, to re-enact, if possible, the tragedies of Scio and Ipsara. The first division of the Turkish fleet left the Dardanelles late in July, intending to make a descent; but Saktonri, having already arrived with thirty-five vessels for the protection of the Samians, after a slight encounter, the Turks retired to Mytilene. In this engagement, Canaris was wounded, in an unsuccessful at-

tempt to grapple a large frigate with his brulot. Topal Pacha continued to threaten Samos several months, during which Mianlis and his brave companions endeavoured, ineffectually, to fire the Turkish fleet in the harbour of Mytilene. Finding it impracticable to effect any thing, the Turks withdrew into the Dardanelles in November, and laid up their vessels for the winter, leaving Samos free from any further apprehensions of attack until the spring.

As for the Morea, it remained in the same state as in the early part of the year. Ibrahim being unable to undertake any thing of magnitude until considerable reinforcements should arrive from Egypt, in men, money, provisions, and munitions of war, occupied himself, so far as he did any thing, in trifling skirmishes with the armed Greeks around him, and in petty excursions, for the purpose of wasting and robbing the country. In fact both parties seemed to be wearying themselves out to little advantage. From his head quarters at Tripolizza, Ibrahim sent out expeditions into various quarters, in which, although the Greeks were unable to oppose any organized resistance, yet, by laying ambuscades, cutting off stragglers, and harrassing their enemy in various ways, they inflicted as much injury as they suffered. Occasionally, the Egyptians were defeated with

some loss ; as once in September, during an attempt to penetrate the district of Maina, in which the family of Mavromichalis displayed their accustomed bravery. At all times, Niketas, surnamed from his prowess *Turcophagos*, or *Turk Eater*, and other chiefs of note, hovered around the Egyptians, cutting off their forces by a kind of guerilla warfare.

The Albanians, under Redschid Pacha, who assisted in the siege of Messolonghi, after the fall of this place, experienced so many impediments in Roumelia, that they did not arrive in Attica until July 20th. On that day, a body of Turkish cavalry, from Negropont, came down as far as the plain of Athens, and the morning afterwards, the pacha pitched his tents before the place. In anticipation of his appearance, measures had been taken to stand a siege. The Acropolis had been provisioned for two years, and could be held by a handful of men ; but the town required a considerable force for its protection, and was not so completely defensible. Nevertheless, general Goura, who commanded the garrison, resolved to make an attempt to defend the town, but soon found it necessary to retire to the Acropolis. The females were sent for safety to Salamis, their old place of refuge against ancient hordes of Asiatic barbarians ; and measures were taken to collect

reinforcements of all kinds, without delay. Karaïskaki was immediately despatched from Napoli di Romania, with a body of Roumeliots, to carry succour to the besieged. The plan finally adopted for the relief of the town was, that Fabvier, with the regular troops, should throw himself into the Piræus ; and that, as the Greeks could not cope with the Turks in the level country about Athens, endeavours should be made to cut off the provisions of the latter, which came altogether from Negropont, or by the way of Zeïtoni. According, therefore, to the arrangements made, Karaïskaki marched in the direction of the latter place, to occupy the passes of Livadia, and excite the people to take up arms, while Coletti prepared for the invasion of Negropont.

Coletti's expedition to Eubœa unfortunately failed altogether. He landed, hoping to find the Turks off their guard ; but he found them expecting the attack, and well prepared to repel it, so that he was defeated, and compelled to retire to his ships, and relinquish his object. Karaïskaki was more successful. Having posted himself in a convenient position, to cut off the enemy's supplies, he encountered a body of 1500 men, who had been sent from the Turkish camp before Athens, and had advanced nearly to Salona, and attacking them in a

defile, obtained a complete victory. This battle took place December 1st. The Turks, commanded by Musta Bey, were disposed to retire before the action. But many of Karaïskaki's troops consisted of the desperate and homeless soldiers of Messolonghi, who impetuously demanded battle, and avenged their wrogs by the sacrifice of more than half the barbarian force. A rich booty, in arms and baggage, was the immediate result of this brilliant success; and in consequence of it, the Turks were obliged to abandon their position at Dobrena. Meanwhile, Athens continued to be closely invested, and engagements occasionally occurred between the garrison and the besiegers, in one of which general Goura was shot through the brain by a rifle ball, and instantly killed. But these little engagements enabled a select body of Greeks to make their entrance into the Acropolis, and greatly to strengthen the garrison; and the inhabitants of Livadia, as far as Volo and Salona, began to take up arms, under the direction of the various capitani. But no movement of any consequence occurred for some time. Indeed, the impoverished state of the country, added to the nature of the season, forced the seraskier virtually to raise, or at least, to relax the siege, and fall back on Salona to obtain provisions, of which he was destitute at Athens.

Thus have we related the incidents of the war by land, previous to the opening of the campaign in the spring of 1827, under Sir Richard Church, assisted by Lord Cochrane; and a few words will suffice to bring down the history of the Greek navy to the same period. When the Turkish fleet returned within the Dardanelles to winter, the three squadrons of Hydra, Spezzia, and Ipsara, also repaired to their respective harbours. The Hydriot sailors had, as usual, been paid for the season upon their entering the service; but returning home destitute of money, they were clamorous for means to fit out a piratical expedition; and when disappointed in this by the secret removal of the ships to Poros, they levied a forced contribution upon the primates; and in the commotion Miaulis left the island. Occasion soon occurred for his services elsewhere, by reason of the arrival at Napoli di Romania of the frigate *Hellas*, built in the United States. The American seamen who navigated the ship, were discontented; and apprehensions also were entertained, lest the Spezziot should take forcible possession of her for their own admiral. On account of these circumstances, the provisional government despatched Miaulis over land to take possession of the ship, and conduct her to Ægina, which was accordingly done: and there she remained, un-

til lord Cochrane commenced operations in the spring. Miaulis, it should be observed, was at this time a kind of exile from Hydra, together with many other Hydriots, who had been greatly distinguished during the whole war, who now resided at Poros.\* This event is attributed to the intrigues of Conduriottis; who, disappointed at being excluded from the new government, retired to Hydra in disgust.

Such was the state of things at the opening of the campaign in 1827. Before the month of May, the Greeks had assembled in Attica a large force, represented as the most numerous army they had ever brought into the field; and with this, their endeavour was to raise the siege of the Acropolis. It consisted of palicari of Olympus, led by Colletti and Caratasso; corps of Macedonians, Thracians, and Thessalians; a body of Mainotes, with Mavromichalis; and other troops, amounting, inclusive of the various descriptions of force, to 10,000 men, at a moderate estimation. But the Roumeli-Valessi, Redschid Mehemed Pacha had also assembled a powerful army of better appointed troops, and with much more abundant resources for maintaining the siege. Various operations of no decisive result, took place before Sir Richard Church entered upon his duties as commander in chief; and which therefore we omit to particularize.

But during the latter part of April, and the whole of May, great activity was displayed on both sides, with occasional advantage to the Greeks, but in the main, to their disadvantage, until the final surrender of the fortress.

It was arranged, as an essential part of the plan, that all the force of the Greeks, both military and naval, should be made to bear upon this point. Lord Cochrane accordingly sailed for the Piræus about the end of March, with the squadron under his command, and 1000 Hydriots. A small success obtained by the Greeks on the 28th of April, was marked by an outrage committed on their part, which shows how little the ordinary rules of civilized warfare are regarded in this contest. About 300 Turks, who held the monastery of St. Spiridion, situated near the Piræus, and converted into a fort, capitulated on condition of honourable terms being granted them, which were stipulated by the Greek commanders. They marched out, and had proceeded a short distance, when the Greeks followed them, and endeavoured to snatch their cloaks and arms. Hereupon blows ensued, and about 200 Turks were massacred, as well as a number of the Greeks themselves, both parties being exposed to the fire of a Turkish battery, which commanded the spot where this disgraceful scene occurred. Sir Richard

Church expressed the strongest indignation at such a violation of the capitulation ; and insisted upon the arrest of some of the ringleaders ; and lord Cochrane, who witnessed the whole, published a proclamation, in which he disclaimed all participation in the infamous act.

After several conferences between the Greek chiefs and lord Cochrane, it was resolved to make a general and desperate attempt to surprise Athens, and relieve the Acropolis. Preparations were made to embark in the Piræus a body of 3500 men, who, unperceived by the Turks, should land at cape Colias, and advance across the plain towards the south part of the city, where the real attack was to take place. In the mean time, Karaiskaki, whose corps was posted on the west side of the city, was to attack on that side the fortified position of the Turks in the wood of Olives, so as to draw the enemy's attention to that point, and facilitate the advance of the main column from cape Colias. If this movement did not raise the siege, it might have the effect of supplying the besieged with fresh troops, ammunition, and provisions, and removing the sick, aged, and females from the Acropolis. An unexpected event greatly contributed to the failure of this plan. General Karaiskaki, who had acquired great reputation among the Greeks, not only for bravery and skill in

war, but for the rarer virtues of disinterestedness and patriotism, was mortally wounded on the 4th of May, in a trifling skirmish of outposts near the wood of Olives. This unfortunate incident so disheartened the troops under him, that they abandoned the three entrenchments nearest to the enemy in the wood, and lost all inclination to make the promised diversion in the contemplated attack.

Nevertheless, in the night of May 5th, the troops intended for the attack embarked from the camp at the Phalerum, and at four in the morning of the 6th, effected a landing near the church called St. George of the three Towers. The troops advanced with alacrity, Makrijanni with the Athenians forming the van ; the regular troops, called *Tacticos*, following, then John Notara, with his band, and Kalergi, with the Cretans. A reserve under Vasso and Pujanotti Notari, remained behind in entrenchments ; and Sir Richard Church and his staff, with lord Cochrane and a small corps, occupied a ruined fort near the beach. Daylight overtook the Greeks just as their leading column had arrived within musket shot of the *Philopappus*, where they were perceived by the Turks, who hastily mustered in numbers under the protection of their fortified heights, and sent out a body of cavalry to keep the assailants in check. The plan of a

surprise being thus disconcerted, the Greeks halted, and endeavoured with all speed to throw up entrenchments to plant their cannon, justly dreading the attack of the Turkish cavalry upon an open plain. But the Turks left them no time to take up a position. Pouring their columns of cavalry upon the plain, and impetuously attacking the slight entrenchments likewise with a body of infantry which had lately arrived in the besieging camp, they had already made the Greeks waver, when the rush of another body of fresh cavalry proved irresistible, and the Greeks fled in complete disorder, leaving from 1500 to 2000 dead upon the field of battle. So complete and decisive was the defeat, that Sir Richard Church and lord Cochrane with difficulty escaped; the latter being obliged to throw himself into the sea, and swim to the nearest ship. Many of the bravest commanders fell in the battle, and some of the most valued corps were completely annihilated; such as the *Tacticos*, the *Cretans*, the *Souliots*, and the little band of *Philhellenes*. It does not appear the battle was lost from any defect of courage in the troops; but partly from want of concert in the different corps, and partly from the neglect of some essential parts of the original plan. Most of the Greeks being irregulars, and without bayonets, were wholly defenceless against the furious charge of

the Turkish horse. Besides, the attacking columns arrived too late, and advanced in broad daylight, so that the enemy, instead of being surprised in the dark, had ample time to prepare for assuming the offensive. Add to this, the failure of *Karaïskaki's* corps to make the concerted attack on the other side, in consequence of which the whole Turkish force, instead of being divided and distracted by two opposite and simultaneous attacks, could be concentrated upon a single point. Such were the circumstances, which produced the fatal result of the battle of the *Acropolis*.

This disastrous day seems to have settled the question as to the fate of Athens, in the opinion of lord Cochrane; for he immediately made preparations for sailing for *Poros*, to collect ships, and go to meet the Turkish fleet in the *Dardanelles*. General Church had returned to his camp at the *Phalerum*, where he endeavoured to maintain his position. Before lord Cochrane set sail, he wrote to captain *Le Blanc*, of the French frigate *Jumon*, requesting him to intercede with the seraskier *Kioutaki* in favour of the garrison in the *Acropolis*. *Le Blanc* communicated the plan to Sir Richard, who did not venture to oppose it. The proposed mediation was favourably received by *Redschid Pacha*; and on the 21th of May, articles of capitulation were subscribed in the



Turkish camp by Redschid Pacha and captain Le Blanc, engaging to grant the garrison leave to proceed where they pleased, under an escort to the place of embarkation, to insure their safety; Turkish hostages to be sent on board the *Junon* as pledges for the faithful observance of the capitulation. The French officers first communicated verbally with colonel Fabvier, who replied, that he did not command in the citadel, being there only by chance. The proposed capitulation was then sent into the fortress, to which the Greek commanders the next day sent the following answer, addressed to captain Le Blanc :

“ We thank you for the trouble which you have taken on our account. The capitulation proposed by the seraskier, and offered to us through you, speaks of subjects of the Porte ; there are none here ; we are Greeks, resolved to live free or die. If the seraskier desires our arms, he has only to come and take them by force.”

As the terms offered by the seraskier were considered very advantageous, this answer, expressing such absolute determination to hold out to the last extremity, filled general Church with surprise. He made unwearied exertions to keep up the courage of his troops, and retain his position at the *Phalerum* ; but all his efforts proved fruitless ; and on the 27th.

he was reduced to the disagreeable necessity of evacuating his camp. This movement was effected without loss ; and the troops arrived the next day at Salamis, from whence general Church proceeded to *Ægina*, having chosen that island for his head-quarters. Here he lost no time in collecting around him those chiefs, on whose patriotism and intelligence he could most rely, in order to make new efforts for the relief of Athens. But on the 4th of June, he received information, greatly to his astonishment, that the garrison of the Acropolis, notwithstanding the strong determination they had so lately signified on the subject, had nearly concluded negotiations for a surrender of the citadel. And ere Sir Richard could interpose, to prevent what seemed to him a premature sacrifice of the Acropolis, it was already delivered up by the garrison into the hands of the seraskier. This took place the 24th of May, O. S., when the citadel had stood a siege of eleven months. It appeared, after the capitulation, that it contained abundance of provisions, and might have holden out much longer. The Greek chiefs published a statement, in which they accused colonel Fabvier of having influenced a portion of the private soldiers to effect the surrender, contrary to the wishes and opinion of their officers ; and much odium attached to colonel Fabvier, in con-

sequence of the charge. But other accounts vindicate his conduct in the affair, as having obtained honourable terms of capitulation, when it was impossible eventually to save the citadel, and holding out any longer must have subjected the garrison to the deplorable alternative of unconditional surrender.

Soon afterwards, incidents occurred at Napoli, bearing the character of civil war, and greatly aggravating the miseries of the unhappy Greeks. On the 28th of June, the commission of government removed, as already mentioned, from Poros to Napoli di Romania. This step was considered as of very questionable expediency at the time, because it would tend to place the government in the hands of the garrison of Napoli, or of some one of the more designing chiefs, who might obtain possession of the fortress of Palamida. The result verified this prediction. In fact, Theodore Grivas, who commanded in Napoli, refused to deliver up the fortress to Colocotroni, who had been appointed to the chief command in the Peloponnese. Sir Richard Church went to Napoli July 9th, in consequence of intelligence that Grivas and Coletti, who was with him, would no longer acknowledge the authority of the government, and that the city was threatened with a serious conflict. Napoli was transformed, by

the vicissitudes of war, into a kind of military hospital. It was filled not only with disorderly soldiery, but with people of all classes, who had fled thither as a place of refuge, and incalculable suffering would be entailed upon these persons by the occurrence of bloodshed. Nevertheless, general Church was unable to effect any thing, and returned to his camp at Ægina. Grivas and his party having possession of Palamida, and of two bastions which overlooked the town, the government retired to the little island of Rouzzi, situated at the entrance of the port, where they continued to hold their meetings. Troops under Fotomara, faithful to the commander-in-chief, occupied the batteries of the ramparts, and all the lower parts of the town. Firing commenced at Palamida on the 11th, and was continued for several days, being returned by the other party. The greatest consternation prevailing among the crowded inhabitants, who anticipated nothing less than the destruction and pillage of their houses; multitudes rushed to the quays to escape from the shot and shells of the contending factions. More than a hundred women and children lost their lives in this horrible scene of confusion and discord. The sea was covered with boats filled with the unhappy fugitives, flying for safety to the other side of the harbour, and compelled to pass un-

sem to the rapacious soldiery on either hand, before they were suffered to escape. Great numbers of sick and wounded were obliged to take refuge in the open fields, destitute of suitable food and clothing, the only hospital in Greece being broken up in the tumult. The plain of Argos became thronged by miserable outcasts, reduced to the last degree of wretchedness. Indignant, at length, at the barbarous inhumanity of the soldiers in one of the forts, the English admiral, Sir Edward Codrington, threatened to open his batteries upon them, if they did not suffer the fugitives to pass unmolested; and finally, under his mediation, the chiefs had an interview, and a suspension of hostilities was effected. But it was not until the 18th of August, that Theodore Grivas submitted himself to the directions of the commander-in-chief, and the committee of government.

While the misguided Greeks were wasting their strength, and disgracing their country, by faction and civil war, and thus aggravating the distress of the miserable remnant of inhabitants whom the Turks had spared, at sea their fleet did not accomplish any important enterprise, to atone for their disasters by land. After the battle of the Acropolis, lord Cochrane sailed for Patras with the frigate and steam vessels, and when off Cape Papa, within sight of Zante, had an action

with two Turkish corvettes, which both escaped, and subsequently reached Alexandria in safety. After this failure, lord Cochrane assembled a fleet of about twenty Greek vessels, intending to attempt the destruction of the viceroy's fleet, then fitting out in the port of Alexandria. Lord Cochrane arrived off Alexandria, June 16th, and hoisted Austrian colours, hoping to deceive the Egyptians; but since the attempt of this kind, made the year before by Miaulis, the viceroy had constantly kept a vessel of war cruising outside the harbour on the lookout. This cruiser immediately recognised the Greek vessels, and giving the alarm by firing her guns, attempted to gain the port, but failing in this, she was run ashore, and there burnt by the Greek fire-ships. By this time the alarm on shore had become general, and a strong fleet of twenty-four vessels, was fitted out with all speed, Mohammed Ali himself superintending the preparations, and urging them on by his presence and exertions. Lord Cochrane, it seems, did not think fit to hazard a meeting, and making all sail, was chased as far as Rhodes by the Egyptians, who then abandoned the pursuit, and returned to Alexandria. Disheartened by these repeated misfortunes, the Greeks were proportionally elated by the victory gained by lord Cochrane, the 2d of August. He was laying in Port

on the watch, when he learnt that a Turkish frigate and schooner were steering for Patras. Pursuing them with the *Hellas* and an armed brig, he compelled them to surrender after a brief engagement, and carried them back in triumph; and the Greeks indulged in the most extravagant rejoicings on occasion of this, the first decided victory gained by him since he had entered their service. Upwards of a month afterwards, an advantage was also gained by the steam vessel under the command of captain Hastings, who, assisted by a Greek armed brig, attacked and destroyed six Turkish vessels in the gulf of Lepanto. These two instances of success were grateful, it is true; but the overpowering superiority of the Turkish naval force, precluded the possibility of lord Cochrane's effecting any thing of magnitude with his slender resources.

It is impossible to imagine a country or people in a more deplorable condition than was now the whole of Greece. Besides the *Acro-Corinthus*, the Greeks held no places on the continent but *Napoli di Romania* and *Napoli di Malvoisia*, which were considered impregnable, and into which provisions could at all times be easily introduced. After seven years of carnage and suffering, such as the world has seldom witnessed, their possessions were reduced to these

three fortresses; the whole of continental Greece, excepting the district of *Maina*, being in the hands of the Turks and the Egyptians. The most numerous army which the Greeks had ever assembled, had been defeated and dispersed before the walls of Athens by *Reschid Pacha*, who after taking the *Acropolis*, was proceeding to organize his forces to reduce in like manner the citadel of Corinth. Within his *Pachalick of Roumelia*, the towns from the isthmus of Corinth to *Prevesa* had sent in articles of submission, signed by the privates, capitani, and elders, and received the pardon of the Porte through the hands of the Greek patriarch. *Ibrahim Pacha* was only waiting for the arrival of reinforcements and supplies from Egypt, to sweep across the *Moræa* with his disciplined Arabs, and again co-operate with the victorious army of *Roumeli Valesi*. The Greeks had nothing to oppose to the enemy; neither money, ammunition, nor provisions, with which to assemble or keep together an effective force. When hostile operations should be resumed in that direction, the more warlike inhabitants might retreat to their native fastnesses, and maintain a partisan warfare; but the mass of the population would have to imitate the example of their countrymen in other quarters, by flying to the islands, and resorting to the despe-

rate expedient of piracy for subsistence, leaving the Peloponnesus a desert.

Ibrahim, indeed, although he did not undertake any enterprise of magnitude between the fall of Mes-solonghi and the battle of Navarino, yet by marching and counter-marching in all directions, he kept up a communication between the various fortresses in his possession. The Greek districts of Gastouni, Patras, and Vostizza, as far inland as Calavrita, had returned to their former allegiance, to avoid extermination; and several of the capitani had submitted and received letters of pardon. Greeks wearing their arms resumed their commercial intercourse with the Turks at Patras, and the cultivation of the rich currant vineyards of Vostizza was resumed, under the *surveillance* of Egyptian soldiery quartered in the district. But language is inadequate to describe the condition of the Greeks in the wasted provinces. Thousands had fallen by the sword, by disease, or by famine; but thousands remained alive, to experience the last degrees of absolute wretchedness which human nature is capable of supporting. Houses pillaged, dismantled, or destroyed by fire; vineyards and olive gardens wasted, and fields converted into stubble, were the familiar objects that continually met the eye. Of the unarmed population there were no traces

of such a warfare had spared, were sold into slavery, or wandered in beggary and starvation, multitudes of them living upon roots and snails, and having no shelter but caves and holes in the earth. In these circumstances it is not surprising that a famishing people, free from the restraints of government, and possessing no other means of subsistence, should adopt a life of piracy, to escape starvation. That any bearing the name of Greeks remained in existence, was only to be accounted for by the consideration, that it is no easy task to exterminate a whole nation, even with executioners so willing and expert as Turks and Arabs. Such was the condition of these unhappy people, whose only crime was their aspiration after the blessings of liberty, and of deliverance from the savage rule of one of the worst despotisms on earth. And the Greeks appealed to the other Christian powers for sympathy and aid, in a voice of agony, that was not heard in vain.

Nothing has been more prejudicial to the cause of the Greeks in other Christian countries, than the system of piracy pursued under her flag in the Archipelago and Levant. The islands that lie scattered over the *Ægean* sea, had, from the circumstances already alluded to, become the refuge of desperate and lawless men, who preyed upon the commerce of every nation that nav-

gated the Mediterranean. Flotillas of Mystics and similar vessels, calculated for piratical cruising, swarmed among all the narrow straits and seas, from Candia to Negropont, which respected no flag, and sought only for the means of plunder. These islanders sometimes treated their captives with cruelty, and occasionally set at defiance the armed ships of Americans, British, French, and Austrians, which cruised in the Levant, for the protection of their respective countrymen. It was difficult to attack them with success, because they could run their light craft among the rocks, or into shallow creeks, inaccessible to ships of war; and if approached or brought to, they fought with the resolution which springs from despair. Of course, it necessarily happened, that the merchantmen and naval officers, who came in contact with them, should acquire and entertain a bad idea of the whole people, from such unfavourable specimens. But the humane and the considerate, reflected that the Greek government did every thing in its power to repress and punish the freebooters; that if many of the Greeks were pirates, it was because the horrors of a war waged for their extermination had expelled them from their homes, stripped them of their property, and scattered them over the islands, in a condition of misery and de-

spair, bordering upon madness itself.

Hence, notwithstanding the losses occasioned to neutral commerce by their depredations, a deep sympathy in the sufferings of the Greeks very generally prevails, and no where more extensively than in America, France, and Great Britain, which, together with Austria, have sustained the greatest injury at their hands. Cargoes of provisions, and other necessities, collected by the Greek committees of New-York, Philadelphia; Boston, and other parts of the United States, and distributed under the eye of Dr. Howe, Mr. Miller, and other American Philhellenes, have proved of incalculable benefit, in opportunely relieving the famishing Greeks. The government of the United States necessarily felt bound, by those principles of rigid neutrality which constitute the cardinal points of their public policy, to abstain from taking part in the contest as a nation. But the European powers, whose practice, at least, sanctions their interference in the affairs of other nations of Europe, in certain extreme cases, have finally concurred in considering the struggle of the Greeks as one of these cases, and have at length interposed barely in season, to preserve their existence as a people.

Notwithstanding the enormous

expenditure of blood and treasure which the Greek war had already cost the sultan, it is undeniable, that, in July, 1827, the Turkish empire was wrought up into more energy and spirit than it had possessed at any previous time during the contest. New recruits and new supplies were about to be furnished Ibrahim Pacha by his father. A dreadful tranquillity pervaded Constantinople—a tranquillity produced by a series of wholesale executions, unparalleled in the history of modern times. The Janissaries, late the arbiters of the sultan's destiny, and at once the strength and the weakness of the empire, had ceased to exist. Mahmoud devoted himself incessantly to the levy, equipment, and discipline of his new troops, designed to combine the subordination and organized movement of European armies, with the patience under hardships, contempt of death, and impetuosity in battle, which characterize the Asiatic Turks. All these circumstances portended a consummation of affairs most fatal to the Greeks.

Negotiations, for ending the conflict in Greece by some arrangement compatible with the principles of religion, of justice, and of humanity, began in good earnest, by an offer of mediation, made in the joint names of Great Britain and Russia. This purpose appears to have been one of the

principal objects of the duke of Wellington's mission to St. Petersburg, in 1826. The precise tenor of the arrangements then concluded, has been recently made public. By the protocol of conferences held at St. Petersburg, April 4th, 1826, between the duke of Wellington in behalf of Great Britain, and counts Lieven and Nesselrode, in behalf of Russia, it appears to have been agreed to propose to the Porte, 1. That "Greece should be a dependency of the Turkish empire, paying a fixed annual tribute, but being exclusively governed by authorities chosen by themselves, in the appointment of which the Porte should co-operate. 2. That the Greeks should enjoy complete liberty of conscience, and of commerce, and should direct exclusively their own domestic government; and, 3. That to prevent any collision of private interests, the Greeks should buy the property of the Turks situated on the continent of Greece, or in the islands. It was further agreed, that the two powers would separately or in concert, profit by every favourable occasion to employ their influence with the belligerents, in order to effect their reconciliation upon the basis of these propositions. The details of the matter were left to be the subject of future negotiation; but each party distinctly engaged to seek in this arrangement no aggrandisement of

territory, no exclusive influence, and no commercial advantages for their subjects, which should not be equally accessible for all other nations; and they also agreed to solicit the concurrence of Austria, Prussia, and France. Such were the stipulations of the parties to this memorable arrangement, which was destined to exercise an influence so important upon the emancipation of Greece.

Letters from Constantinople, written during the earlier part of the year 1827, abound with statements of the representations made to the Turkish divan, in compliance with the provisions of the above treaty, by Mr. Stratford Canning, and M. de Ribeaupierre, the representatives of England and Russia. But the language of the Reis Effendi was not such, at any time, as to authorize the expectation that the Porte would accept the mediation of the two powers. It was understood that count Guilleminot, the French ambassador, although his court had not yet formally acceded to the views of Russia and England, nevertheless, advised the Porte to acquiesce in them. Similar counsel was also given by the Prussian and Austrian ministers. If the sultan counted upon the lukewarmness of Austria, or her jealousy of Russia, as any security against an active interposition of the allies, he was greatly mistaken. The baron d'Ottenfels,

the Austrian internuncio, presented a diplomatic note to the Reis Effendi, strongly urging the Porte to consult its own interest, and the future tranquillity of Europe, by yielding to the propositions of the cabinets of London and St. Petersburg. But neither the representations of one, nor the threats of another, appeared to shake the resolution of the sultan, who persisted in regarding their proposals as an obtrusive and unjustifiable interference in the domestic affairs of his empire.

To follow all the negotiations relative to this point chronologically and minutely, would greatly exceed the limits which our plan prescribes to us; nor is it needful to a clear understanding of the subject. For on the 9th and 10th of June, the Reis Effendi presented to the French, English, Russian, Austrian, and Prussian missions, a long manifesto, which cut short all proceedings upon the footing in which matters then stood. In this elaborate state paper, the Reis Effendi entered into a full exposition of the rights of the Porte over the insurgent provinces of Greece, of the tolerant policy which he alleged had always been followed towards its inhabitants, and of the disposition still entertained to pardon their present rebellion, if atoned for by speedy submission. He complained of the European governments,



for having violated their neutral relations, in suffering their subjects to countenance and assist the rebel Greeks ; and reproached some of them with having expressly agreed not to interfere between them and the Porte. Finally, he said that, as revolt and disorder existed only in a single portion of the Ottoman territory, while all the rest of that vast empire enjoyed the most perfect repose, the sultan considered it not only contrary to the usage of nations, but absolutely derogatory to his own dignity, to admit of the interposition of a foreign power, to prevent his punishing his revolted subjects, within his own dominions ; and he declared once for all, that he would never listen to any propositions whatever, which aimed to deprive him of the least part of his hereditary rights over the insurgent Greeks.

While these proceedings had been taking place at Constantinople, a treaty was under negotiation at London, which again changed the complexion of affairs, and the relations of the parties. It is entitled, a treaty for the settlement of Greece, concluded July 1st, between Great Britain, France, and Russia, through their respective plenipotentiaries, the English secretary, viscount Dudley, the prince de Polignac, and the prince de Lieven. The preamble sets forth

that the high contracting parties, penetrated with the necessity of putting an end to the sanguinary contest, which, by delivering up the Greek provinces and the isles of the Archipelago to all the disorders of anarchy, produced daily fresh impediments to the commerce of the European states ; having received, on the part of the Greeks, a pressing request to interpose their mediation with the Ottoman Porte ; and being animated by the desire of stopping the effusion of blood, and arresting the evils of all kinds which might arise from the continuance of the existing state of things,—had resolved to unite their efforts to re-establish a peace, by means of an arrangement which was called for as much by humanity, as by the interest and the repose of Europe. The treaty itself was substantially the same as the protocol of the conferences at St. Petersburg, except that the three powers agreed to demand an immediate armistice between the belligerents, as a preliminary condition indispensable to the opening of any negotiation. Had the treaty stopped here, things might have dragged along in the Mediterranean for another year, as they had during the last ; but to prevent this, an additional and secret article was appended to the treaty, dated July 6th, providing that if the Porte did not, within the space of one month, accept the mediation proposed, the

contracting powers would immediately proceed to establish commercial relations with the Greeks; and that, if either or both of the belligerent parties should not, within one month, accept the proposed armistice, the contracting powers would "*exert all the means which circumstances might suggest to their prudence*, to obtain the immediate effect of the armistice." Instructions conformable to this stipulation, were immediately to be sent to the admirals commanding the French, Russian, and English squadrons, in the seas of the Levant, their respective representatives in London being authorized to discuss and determine, from time to time, the ulterior measures which might become requisite.

What specific instructions were actually given to the naval officers of the three powers in the Mediterranean, has not yet been disclosed to the public; nor to what precise ulterior measures it was determined to resort; excepting so far as may be inferred from the event. The Greek committee of government lost no time, after being notified of this memorable treaty, in accepting the proffered mediation, upon the conditions prescribed to them; and immediately issued a proclamation, dated August 21st, declaratory of the fact. Alluding to the late disturbances at Napoli, the commission further signified their intention of temporarily trans-

ferring the seat of government to Ægina. But nothing could move the obstinacy of the Porte. Down to the 16th of August, the uniform answer of the Ottoman government to all the representations of the foreign ambassadors, was a firm and peremptory refusal to accept the proffered mediation upon any terms whatever. On that day, the ambassadors addressed a note to the Reis Effendi, embracing the substance of the treaty of London, and requiring of the Divan to make known its intentions respecting it, within the space of fifteen days. This note concluded with these remarkable expressions: "It is their duty not to conceal from the Reis Effendi, that a new refusal, an evasive or insufficient answer, even a total silence, on the part of his government, will place the allied courts under the necessity of recurring to such measures as they shall judge most efficacious for putting an end to a state of things, which is become incompatible even with the true interests of the sublime Porte, with the security of commerce in general, and with the perfect tranquillity of Europe." When the term allotted by this note for reply had expired, that is, on the 30th of September, the dragomans of the three embassies repaired to the Reis Effendi to receive his answer, which was only verbal, and was the most decided refusal to admit of the interference

of any power in the contest with the Greeks. The next day, another note was presented, couched in language still more pressing than the preceding, to which the same answer as before was given. It then became a matter of question, whether the ambassadors should persist in the course of negotiation, or should immediately demand their passports, and quit the Turkish capital. But the order of events requires that we should now pass to the seat of the war in Greece, where the crisis of affairs actually arrived more suddenly than either party had anticipated.

We have several times referred to the fact, that Ibrahim Pacha remained comparatively inactive long after the fall of Messolonghi, awaiting the arrival of reinforcements from Egypt. The viceroy's fleet at length sailed from Alexandria, August 5th, with 6000 troops, and supplies in proportion, destined for the Morea, and arrived at Navarino the 3d of September. Including transports, this fleet is said to have consisted of more than 100 vessels; and when united with the other Turkish ships in the harbour of Navarino, constituted a most powerful and splendid naval armament. Early in the same month, vice admiral Sir Edward Codrington sailed from Smyrna towards the same quarter, to be joined there by the French squadron, under rear admiral de Rigny, already in the

Mediterranean, and by the rear admiral count Heiden, with a Russian fleet from the Baltic, for the purpose of carrying into effect the provisions of the treaty of London. The object of the allies being in the first place, to obtain an armistice *de facto*, Sir Edward Codrington and the chevalier de Rigny, acting as well for themselves, as for the Russian admiral, held a conference with Ibrahim Pacha, on the 25th of September, in which the latter consented to a provisional suspension of hostilities. Notwithstanding his agreement, Ibrahim Pacha attempted, the very next day, to leave the harbour of Navarino; and Sir Edward Codrington afterwards met a detachment of the Turco-Egyptian fleet steering for Patras, which he compelled to return. These circumstances, indicating that the Turks did not feel disposed to abate one tittle of their pretensions, naturally created intense anxiety in all Europe, as to the probable result of such an extraordinary state of things.

This did not long remain in doubt. Enraged, it would seem, that obstacles were thrown in the way of his projected naval enterprises, Ibrahim Pacha resolved, in defiance of the armistice, and in breach of his solemn engagements, to wreak his vengeance on the whole Greek population within his power. His troops began to carry on a species of warfare more de-

destructive and exterminating than before, putting women and children to the sword, burning the dwellings, tearing up olive trees by the roots, and destroying vineyards, in order to complete the devastation of the country. Justly indignant at this violation of good faith, Sir Edward Codrington, and the chevalier de Rigny nevertheless abstained from ult. measures, until they were joined by count Heden, who did not arrive off Zante until the 11th of October. Soon afterwards the three admirals met before Navarino, and in a protocol of their conference, dated October 18th, set forth its result, in language, which, to our apprehension, is remarkable for its extreme generality and consequent ambiguity. After alleging the inducements to some decisive steps afforded by Ibrahim's conduct, they state, that to fulfil the intentions of the three courts, there only remained the choice between three modes of proceeding. To continue to blockade the harbour of Navarino throughout the winter, would be difficult, expensive, and perhaps useless; because a storm might disperse the squadrons, and leave Ibrahim at liberty to convey his destroying army to any part of Greece. To unite the allied squadrons in Navarino itself, and secure, by their permanent presence, the inaction of the Ottoman fleet, was considered objectionable, because the Porte would meet it by its usual

policy of procrastination. Rejecting these two plans, it was agreed to "*proceed to take a position with the squadrons in Navarino,*" in order to renew to Ibrahim the proposal of an armistice, it being supposed that this course might effect the desired object, "*without effusion of blood, and without hostilities, simply by the imposing presence of the squadrons.*"

Certain it is, that the three admirals, however sincere they may have been in adopting this course as the means of preventing hostilities, did not calculate rightly either respecting the strength or the presumption of their opponents. Their language is the very perfection of diplomatic obscurity, and leaves it altogether questionable, whether they expected or desired to avoid an actual collision. They resolve to act in this way, because the other two ways were liable to be less immediately decisive. They do not express a belief that it *will* prevent the effusion of blood, but only an opinion that it *may*. Finally, they agree to take a position with the squadrons in Navarino, that is, to range themselves alongside the Turks in order of battle, for the express purpose of producing intimidation by their imposing presence. Far be it from us to quarrel with a course of proceeding, which produced results so glorious to Christendom. The belief is inevitable, that the three admirals with their

knowledge of the Turkish character, must have anticipated the consequences which actually followed. But we do not honour them less if they did, seeing that nothing short of a decisive blow appeared likely to produce any serious impression upon the infatuated obstinacy of the Porte.

In pursuance of the above described agreement, the combined squadrons, acting under the orders of Sir Edward Codrington as commander in chief, stood in for Navarino on the 20th of October. They passed the batteries in two columns, and found the Turkish ships moored in the form of a crescent, with springs on their cables, and to all appearance ready for action. The British flag-ship *Asia*, led on, and anchored close alongside a ship of the line, bearing the flag of the *Capitana Bey*, and the other vessels belonging to the combined squadrons, took their appointed stations in order of battle. Instructions had been given, that no gun should be fired, unless guns were first fired by the Turks; and these instructions were strictly observed. In point of fact, therefore, the action was commenced by the Turks, who fired into a boat belonging to the *Dartmouth*, with musketry, and killed a lieutenant and several of the boat's crew. This produced a defensive fire of musketry from the *Dartmouth*, and the French flag ship *Syrene*, which

was followed by a cannon ball shot at the *Asia*; whereupon the battle commenced, and soon became general. It continued with great fury for four hours, when it terminated by the complete destruction of the Ottoman fleet, consisting of 4 sail of the line, 15 frigates, 15 corvettes, 9 brigs, 3 fire-ships, and numerous transports, and a tremendous loss of human life, for a maritime engagement. The three admirals, and their respective squadrons, co-operated together with perfect harmony throughout the battle, and thus obtained a victory, which, for the carnage and destruction which accompanied it, has few parallels in the naval history of the world.

If any proof were wanting of the sympathy every where felt for the struggling Greeks, we might find it in the universal burst of acclamation, which hailed the first news of the victory throughout civilized America and Europe. The deliverance of Greece was now considered as accomplished. A formidable fleet, destined to convey the means of renewed barbarities to the Greek provinces and islands, was annihilated in a single day, and christendom was triumphant once again in the seas of Greece and the Levant. The first emotion, we repeat, was one of unmingled exultation. Afterwards, it is true, considerations of the operation and consequences of the bat-

de were pressed upon the attention of the British cabinet with much urgency, and excited apprehensions, which, if deserving of any regard, should have been better weighed when the treaty of London was concluded. A collision between the Turks and the three powers, was so clearly the natural, almost the necessary, sequel to the treaty, that such apprehensions were altogether mistimed, after the irrevocable step was taken. If the battle was precipitately fought, it was indeed too late to lament the fact ; because, no concessions on the part of the allies, short of an abandonment of their object, would be likely to appease the indignation of the Porte.

When Ibrahim Pacha was informed of this disastrous discomfiture, he fell back upon Coron, and put to the sword his Greek prisoners, either in revenge of the defeat, or from anticipated scarcity of provisions, leaving the flags of the allies floating upon the ramparts of Navarino. He was on his way to Patras, to relieve the garrison, then hard pressed by the Greeks, and in want of ammunition and provisions; but he immediately desisted from his purpose. As the Turkish troops in the Morea would soon be distressed for want of supplies, and as they could not know the future intentions of the allies, great consternation prevailed among the Arab soldiers, quartered over the Morea.

And from Ibrahim's movements, it was evident that he was preparing to send back a part of his troops, and probably to evacuate all the open country, which his own ravages had rendered utterly incapable of supporting an army. In fact, the battle of Navarino in a manner terminated the war as between the Greeks and Turks. Despatches were sent from the admirals to general Church and lord Cochrane, at the Greek camp at Vostizza, requiring them to observe the armistice, which had been so effectually forced upon the enemy. Excepting the expedition against Scio, undertaken by colonel Fabvier, and the consequent landing upon that island in the beginning of December, no great movement of a hostile nature was attempted, either by Ibrahim or the Greeks.

Immediately after the battle of Navarino, Sir Edward Codrington issued orders that all vessels sailing for the Dardanelles, should be stopped ; and took measures to communicate intelligence of the event to the ambassadors of the three powers at Constantinople, by the speediest means, in order to place them on their guard, it being impossible to foresee with certainty what would be the effect of the defeat upon the Turkish government and people. Serious apprehensions were entertained that the populace, exasperated by bigotry and resentment, might every where

rise upon the Franks, and murder them all indiscriminately. At Smyrna, for several days after the news arrived, great consternation prevailed among the christians, and all classes of the population partook of the excitement naturally occasioned by such an unexpected catastrophe. The English and French men of war stood in readiness to cannonade the town, in case their countrymen were molested. Happily, however, no outrage was committed, and the Europeans were permitted to pursue their usual avocations, after the first effervescence had subsided. Even Mohammed Ali, who received the news by an Egyptian corvette, restrained his own passions, and those of his subjects, so that Alexandria continued in perfect tranquillity. The singular equanimity of the viceroy on this occasion, arose, no doubt, from his being perfectly prepared for the catastrophe, which he had warned the Porte must take place, soon after he heard the treaty of mediation had been concluded. And, contrary to the expectations generally entertained in Europe, when the event became known at Constantinople, in the beginning of November, no explosion took place, no ebullition of popular fury testified the rage, confusion, and dismay which reigned in every breast. Among the peculiarities which signalized these memorable events,

the tranquillity which prevailed on this occasion in the capital was not the least remarkable. It struck all observers the more, because it seemed to indicate a settled purpose of dogged resentment; and foreigners in the capital every moment expected an order from the sultan commanding the standard of the prophet again to be displayed on the mosque of St. Sophia, and a general arming to take place throughout the Ottoman empire.

We left the ambassadors at a period, when, according to the strict interpretation of their last note, the negotiations would have been at an end. But they continued to be protracted until the 28th of October, when the ambassadors received news of the battle, a few days before it became known to the Porte or the public. Three days afterwards, they inquired of the Reis Effendi what instructions had been sent to Ibrahim by the Porte, and in what light the latter would regard any hostile operations between him and the squadrons of the allies; but the Reis Effendi refused to give information upon the subject. On the 5th of November, there was a grand meeting of the Divan, at the residence of the Mufti, whose resolution was, to claim of the allies full indemnity for the destruction of the Turkish and Egyptian fleets, as a condition indispensable to the maintenance of peace. To this demand, the

ambassadors replied on the 10th, that the battle of Navarino arose from an act of aggression on the part of the Turks, which destroyed all claim of the Porte to indemnity ; and also, that the Porte might have prevented the possibility of such an occurrence, by seasonably listening to the counsels of moderation. The negotiations continued until the 24th of November, when the ambassadors, before leaving Constantinople, once more and finally invited the Porte to accept their mediation, and acknowledge the armistice. Of course, this invitation met with the same fate as its predecessors ; and on the 8th of December, Mr. Stratford Canning and count Guilleminot left Constantinople for Corfu, and the marquis de Ribeaupierre also quitted it for Odessa ; and thus the relations of amity between their respective countries and the Porte, were dissolved. Every thing in Constantinople demonstrated that the infatuated Turks were about to rush into war against a combination of the most powerful states of Europe. But the history of the subsequent events rightly belongs to the ensuing year, as until then the Porte made no official declaration

of its views and intentions ; and at this point, therefore, it is proper our narrative should be suspended.

At this point, then, we leave the history of Europe for 1827. Neither of the northern states having been the scene of important events during that period, we have abstained from making them severally the subjects of separate remark ; omitting, for the same reason, to give a particular account of Austria and Italy. This consideration does not in strictness apply to Russia, which, after the removal of general Yarmoloff, from the government of Georgia and Caucasia, and through the more active exertions of general Paskevitch, his successor, gained one advantage after another over the forces of Abbas Mirza, until the capture of Tabreez reduced the Persians to a sense of the danger of continuing the war against their powerful neighbour, and led to the conclusion of a treaty of peace. But we reserve the history of these incidents for another volume, so as to relate them in connexion with some later circumstances, all which combined, have especially served to fix the public attention upon Russia.





**LOCAL HISTORY,**

AND

**DOMESTIC OCCURRENCES,**

**FOR THE YEARS 1826-7.**



# DOMESTIC OCCURRENCES.

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## THE NEW-ENGLAND STATES.

1827.] MAINE.

*Legislature.*—The legislature of Maine convened on the first Wednesday of January, in Portland. Robert P. Dunlap, Esq. was chosen president of the senate, and John Ruggles, Esq. speaker of the house of representatives.

HOUSE OF REPRESENTATIVES. }

February 15. {

*Internal Improvement.*—The committee to whom had been referred so much of the governor's message, at the commencement of the session, as related to the subject of internal improvement, made a report, accompanied with the following resolutions: •

*Resolved,* That if it shall be the determination of the government of the United States, to appropriate a part of its revenue to the purposes of internal improvement, in the construction of roads and canals, and improving the navigation of rivers, and in promoting education, it is the opinion of this legislature, that the funds designed for these objects, ought to be distributed among the several states, in proportion to their population, to be expended under the authority of their respective legislatures.

*Resolved,* That the secretary of state be, and he hereby is directed to

transmit a copy of these resolves, with the preamble, to each of the senators and representatives in congress from this state.

*Resolved.* That the governor be, and he hereby is requested to transmit a copy of these resolves, with the preamble, to the executive of each of the other states in the Union.

The question, on passing the resolves to be engrossed, as reported by the committee, was, after a long debate, taken by yeas and nays, and decided in the affirmative—yeas 81, nays 50. They were adopted in the senate, by the casting vote of the president.

*Seat of Government.*—The legislature of Maine adjourned without delay, on the 26th of February, having been in session nearly eight weeks, and passed 83 acts and 51 resolves. On the 24th, the bill fixing the seat of government at Augusta, after 1832, passed to be enacted, and the sum of \$500 was appropriated to be expended in fencing and ornamenting the lot on which the state house will probably be built.

*April*—**DESTRUCTIVE FIRE IN AUGUSTA, (ME.)**—On Monday night last, about 11 o'clock, the inhabitants of Augusta were alarmed by the ringing

of bells and the cries of Fire! It proved to be in Kennebec bridge, which, as many of our readers know, was framed and covered above the floor, resembling, externally, a large rope-walk. The fire was first discovered in a closet or locker, built about midway of the bridge, for a deposit of tools, ropes, &c. necessary to workmen, in case of repairs. At the time of the discovery, it had made but little progress; but the rapidity with which the flames spread, aided by the air, circulating through the building on the inside, and above and beneath it on the outside, that in about five minutes from that time, the fire ranged the whole length of the bridge, pouring out with violence at each end, and bursting through different parts of the roof.

On either side of the river, at the opposite ends of the bridge, there is a cluster of buildings, principally stores. No sooner had the fire commanded the whole bridge, than the flames brought destruction into the opposite villages. In a few moments, a large store, owned by E. Craig, and occupied by the Messrs. Jones, on the western side, and a building improved as a dwelling house by Mr. Kincaid, the toll gatherer, on the eastern side, were wrapped in the destructive element.

In but little more than half an hour from the time the alarm was given, the bridge, with its now naked, but yet burning frame over it, fell, in two divisions. The eastern arch first giving way, and the western following it in about fifteen minutes. The crash was terrible. The two divisions moved with the current down the river, each in a compact form, threatening destruction to wharves and other property on the shores below. One of these moving bodies of fire was stopped at Hallowell; the other passed this village, six miles from Augusta, about three o'clock in the morning.

**July.—HARRISBURG CONVENTION.** **MAINE DELEGATES.**—A meeting of

delegates from different parts of Maine, was held at Hallowell on the 19th inst, at which resolutions were adopted, approving of the proposition for a convention at Harrisburg, and favourable to the encouragement of the agricultural and manufacturing interests of the United States; and the following gentlemen were chosen to represent the state at Harrisburg on the 30th inst. viz. John Holmes, Jedediah Herrick, Joshua Wingate, jr.; William Ladd, and Bryce McLellan. Hon. Jonathan Page was chairman of the meeting.

**Snow.**—A few days since, at New Gloucester, Me. (20 miles below Portland) the atmosphere presented the appearance of being filled with snow, none of which, however, retained its form long enough to reach the earth.

**August.—FIRE AT PORTLAND.**—The fire commenced at about one o'clock, on Tuesday morning, in the store of Mr. G. W. Bartol, on the corner of the passage way leading to Ingraham's wharf. On Fore street, the old market house, and all the buildings to Long wharf, and on the east side of the wharf as far as the store of E. Greeley & Son, the buildings were consumed—comprising about twenty-five tenements.

**September.—ELECTIONS.**—The annual election of state and county officers, was held on the 10th. Gov. Lincoln was re-elected.

**October.—ARROSTOUK SETTLEMENT.**—The following statement, made by George W. Coffin, Esq. land agent of the state of Massachusetts, is extracted from a volume of documents on the subject, published by authority, and presents a clear and accurate view of the difficulties on the frontier of Maine.

The French settlers at Madawaska, are many of them the descendants of the neutral French, that were formerly settled at Kennibecawins, near the city of St. Johns, and about the year '65, were driven from thence into the interior; they then fixed

themselves at what is now called Madawaska, being an extent of territory bordering upon St. John's river about 20 miles. These people, by marriage with the Canadian French, together with emigration from Canada, are now hardly distinguishable from the French citizens of Canada, using the same Creole language. They remained in that wilderness for a number of years, without being noticed by the provinces, and to the citizens of Maine, were entirely unknown. The first authority exercised over them by the British, commenced about twelve or fifteen years ago, when a hard contested election was expected, for a member of the assembly, for the county of York; to assist some political purposes, the Madawaskians were called upon to give in their votes, and from that time, they have been permitted, or refused the right of voting, according to the views of interested persons. Since the dispute relative to the boundary line, which commenced about the time an attempt was made to adjust it, under the provision of the treaty of Ghent, the British have pursued a more direct course of jurisdiction. Peter Fraser, major of the 4th battalion of the York county militia, thought it a good measure to have the Frenchmen enrolled, and they have for some four or five years been made to do military duty, but never have been intrusted with arms. They have also, when small demands have been brought against them, whether just or not, been under the necessity of paying, or be subjected to a journey, of 150 or 200 miles, to Frederickton, to make their defence; a grievance which they complain of very much. Within 10 or 12 years, several families have moved to Madawaska from Kenebec, and others from New Brunswick. Pursuant to the resolves of 11th June, 1825, the land agents for Massachusetts and Maine, surveyed to John Baker, and made and executed a deed by metes and bounds, of one hundred acres of land, and another lot of same contents, to James

Bacon. Said Baker has on his lot a saw and grist mill, dwelling house, &c. very pleasantly situated at the confluence of a river (called Mary-miticook) with St. John's river, about ten miles above the mouth of Madawaska river; 12 or 15 miles higher up, on the south side, Fish river empties into the St. Johns. At this place is a large double saw mill, erected by Wilnot and Peters, of Frederickton, which is supplied from the forest surrounding it. When I was at St. John's two years ago, I was informed, that in consequence of the remonstrance made to the British minister at Washington, by our government, against the practice of granting permits for cutting timber from the public lands, a messenger from England had been sent to St. John's, who passed up to the head of the river, and on his return, declared the Americans to be right, in the construction of the treaty, relative to the boundary line, and ordered a stop to be put to granting permits; and all those issued for the winter of 1825-6,

recall. I was much gratified at hearing this, and believing at that time an adjustment might take place, thought it best to proceed no further in making deeds. The excitement has progressed with the people on the frontiers regularly to the present time, and I believe the personal interest of major Fraser, (who has several farms on the banks of the river, within the disputed territory, and is a member of the province assembly,) as also of said Wilnot and Peters, have prevented, by their influence, an honourable adjustment, and kept the people in a ferment.

I was at Passadumky, on Penobscot river, about the middle of last month, when the mail carrier from Houlton to Bangor, came through; from him I obtained the following story, which he said was the rumour at Houlton, viz. "That said Baker, some time this past season, sent some lumber down St. John's river, as usual, to market, which was seized at Frederickton: (whether for a violation of

the revenue law, or for cutting from the crown lands, was not stated;) this irritated Baker very much; soon after the carrier of the province mail (which is carried in a boat) was passing by said Baker's residence, was hailed by him to know what boat that was, and was answered the province mail, to which Baker said, you may pass on now, but shall not pass many times more; this conversation was reported down river; a deputy sheriff, with an armed posse, were proceeding up river to take Baker: the attorney general hearing of it, sent a dispatch after them, with orders not to go armed, but proceed without; they went to Baker's house, and took him out of his bed, and carried him to Frederickton; about the same time, a person residing on the Aroostook river, had a writ served on him for debt; the officer, to satisfy the demand, took possession of a cow, which was resented by the settlers generally; they rallied and rescued the cow from the officer; and destroyed the writ. Although the Aroostook settlement is 50 or 60 miles from Baker's, yet this transaction is made a part of the charge against him, viz. "Attempt at stopping the mail, and exciting the people to rebellion against the government."

**November.**—**MAINE AND NEW-BRUNSWICK.**—Charles S. Davies, Esq. of Portland, has been appointed by the executive of Maine, an agent, with authority to act in behalf of the State, in obtaining information as to all objects relating to the rights of property and jurisdiction between the governments of the said state and the province of New-Brunswick; and further to inquire into the nature of the aggressions by inhabitants of said province, of which complaints have recently been made to the executive, by citizens of that state residing near the frontier.

In the mean time the governor of Maine has issued the following proclamation:

"Whereas it has been made known to the State that one of its citizens

has been conveyed from it, by a foreign power, to a gaol in the province of New-Brunswick; and that many trespasses have been committed by inhabitants of the same province on the sovereignty of Maine, and the rights of those she is bound to protect.

"Be it also known that, relying on the government and people of the union, the proper exertions will be applied to obtain réparation and security.

"Those, therefore, suffering wrong or threatened with it, and those interested by sympathy and principle on account of the violation of our territory and immunities, are exhorted to forbearance and peace, so that the preparations for preventing the removal of our landmarks, and guarding the sacred and inestimable rights of American citizens, may not be embarrassed by any unauthorized acts.

—ENOCH LINCOLN.

"Nov. 9, 1827."

**December**—**NORTH EAST BOUNDARY.**—The Eastport Sentinel informs that the governor of New-Brunswick, considering the affair a national one, had declined receiving officially Mr. Davies, the agent appointed by the executive of Maine, to look into the disturbances on the frontier. He was received, however, by the inhabitants, with the greatest hospitality; and it was expected would obtain some information respecting the state of the case.

The National Journal contains the following article on this subject.

From some resolutions passed at various meetings in Lower Canada, which appeared in our daily paper of yesterday, and are to be found in our country journal of to-day, it will be seen, that our Canadian neighbours are about to petition the king, for the purpose of wresting from us the country on the borders of the river St. John, which our government claims under the provisions of the treaty of 1783. The resolutions pledge the petitioners to aid, his Majesty in preserving that tract of country to the Canadas, at any sacrifice on their part. We re-

get to see this restlessness of disposition on the part of our neighbours, and cannot but attribute it, in some degree, to an ignorance of the treaty stipulation on which the American right of possession to this tract of country rests.

By the treaty of 1783, it was stipulated that the boundary of the United States on that frontier should be as follows:—

‘From the northwest angle of Nova Scotia, viz. that angle which is formed by a line drawn due north from the source of St. Croix river to the highlands; along the said highlands which divide those rivers, that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean, to the northwestern-most head of Connecticut river; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by the line due west in said latitude, until it strikes the river Iroquois or Catanaquay, &c. (Vide Art. 2 of Treaty of Paris, of Sept. 3, 1783.)

Commencing at the source of St. Croix river, as we find it laid down in our most authentic maps, and running a line directly north to the highlands described in the above article, there is a very considerable abutment of territory which runs between New-Brunswick on its east side, and Lower Canada on the west, and in this tract of country is the area described by the petitioners as claimed by the United States, whose pretensions have arrested “the measures of the establishment of this part of the province.”

In the infancy of our government, we were perhaps of necessity, so occupied in the establishment of our institutions upon a basis of permanence, and in adopting measures to extricate ourselves from the burdens which a long contest had thrown upon us, and to secure the full blessings of our newly gained independence, that the settlement of the boundary thus described by actual survey, was not made. Some disputes arose, however, which, in the progress of events, brought the

subject under the notice of our government, and an agreement for a joint commission for the purpose of removing the difficulty, was charged upon our commissioners who were sent to negotiate with Great Britain at Ghent. We accordingly find in the fifth article of the treaty of Ghent, the following provisions:

“Art. 5. Whereas neither that point of the highlands lying due north from the source of the river St. Croix, and designated in the former treaty of peace between the two powers as the northwest angle of Nova-Scotia, nor the northwestern-most head of Connecticut river, has yet been ascertained, &c. &c. it is agreed that, for these several purposes, two commissioners shall be appointed, sworn and authorized to act,” &c.

And again—

“The said commissioners shall have power to ascertain and determine the points above mentioned, in conformity with the provisions of the said treaty of peace of 1783,” &c.

Now, it appears to us perfectly obvious, that no subsequent claim set up by the British government, nor complaint of British occupants, can for a moment be permitted to interfere with the plain stipulation contained in the article of the treaty of 1783, which they have quoted, and which is confirmed in our second extract from the treaty of Ghent.

The effect which might result in times of war from the interposition of so large a tract of American territory between the Provinces of Lower Canada and New-Brunswick, if it is apprehended that they might be injurious to Great Britain, ought to have been weighed before the stipulation for the boundary line was introduced into, and made part of the definitive treaty. It is not now the time to correct the errors of that day. And if the occupants of that part of the country, which is justly claimed by the United States, shall derive injury from such claim, it is to their own government that they ought to look for remuneration for such injury. instead



of requiring from the United States any concessions which are incompatible with their interests.

The question which has been submitted to commissioners, in compliance with the article above quoted from the treaty of Ghent, has not yet settled the difference which exists. The British government claim all the territory north of Mar's Hill, and the range of land from thence which divides the waters flowing into the St. John from those flowing into the Penobscot; and one of the grounds assigned for this claim is the insecurity of Canada and New-Brunswick, and the impossibility of transporting the mail in a direct route from New-Brunswick to Quebec, if we are to possess that tract. We stand on the treaty itself, and the course of a boundary line run in obedience to its specification. As we understand that the British government contemplates the forthwith conveyance of the mail over land from Halifax to Quebec, we trust that they have determined to refrain from any longer pressing a claim which cannot be supported either by the terms of the treaty, or on any other ground of equity.

If, as argued, the face of the country presents so different an aspect at this time, from what it exhibited when the treaty of 1763 was made, that it is found that the description in the treaty is obviously at variance with the intention of the British government, we ought to pause, and reflect seriously, before we admit the force of an argument, which may be drawn into a very dangerous precedent in the future construction of treaties. It is hardly to be presumed that the knowledge possessed by the American negotiators could have been more accurate or enlarged than that of the British government: and it is improbable, that if a mistake had been made by the United States' Ministers to the detriment of our interests, Great Britain would now have allowed the intention of that day to have been successfully alleged against the facts which nearly

half a century has subsequently disclosed.

The question, however, is one to be settled by the two governments: and we again express our regret that our Canadian neighbours should have assumed a tone which may be construed into unfriendliness.

#### NEW-HAMPSHIRE.

*January.*—*COLD.*—At Franconia, the following are the degrees of cold, indicated by a thermometer during the late severe weather.

Wednesday, Jan. 17, 1827,	24	below 0
Thursday,	18.	27
Friday,	19,	20
Saturday,	20,	31
Sunday,	21,	36
Monday,	22,	15
Tuesday,	20,	15
Wednesday,	21,	15
Thursday,	25.	26

At half past 8, A. M.

At Woodstock, Vt. Jan. 17, 10 below 0—18th, 12—19th, 8—20th, 22—21st, 29—22d, 16.

At Saratoga, Jan. 21, the thermometer was at 34 below 0.

At Albany, Jan. 17, 2 below 0—18th, 5—19th, 2—20th, 0—21st, 12.

The snow on the White Mountains in New-Hampshire, was more than six feet deep.

*June.*—*LEGISLATURE.*—The new Legislature of New-Hampshire met in Concord on Wednesday, June 6th. Hon. Matthew Harvey was re-elected President of the Senate, and Samuel Dinsmore, jun. Clerk; Hon. Henry Hubbard, of Charlestown, Speaker of the House, and Samuel D. Bell, Esq. Clerk. Messrs. Harvey and Hubbard were unanimously chosen; and Mr. Bell had 112 of 199 votes. The votes for Governor legally returned were 27,111, of which Benjamin Pierce had 23,695, and was chosen. Mr. Morrill had 2529—and 1197 were scattered.

The Legislature adjourned after a session of about five weeks. During the session, 67 acts, and 14 resolves, were passed, mostly of a local nature. Of those of a general nature, are—

acts more effectually to secure to the citizens of the State their rights of suffrage;—to provide for the maintenance of bastard children—relating to the election of governor, &c.—concerning the discontinuance of highways—to exempt pews in certain cases from attachment and execution except for parish taxes—to regulate the weighing of merchandise &c.—for the support and regulation of primary schools—for regulating licensed houses—for the suppression of lotteries—and for raising 40,000 dollars for the use of the state.

The expenses of this state amounted for the year ending June 1, 1826, to \$39,625 68, and were discharged from receipts on account of interest of public stocks owned by the state, profits of state's prison, militia fines, &c.

**A WHALE CAUGHT.**—On Thursday, June 7th, a whale, which had been seen in the offing several days previous, came into Portsmouth harbour, and continued sporting near the navy-yard for two or three hours, where the spectators had a fine view of him. A little before sunset, attracted thither, probably, by the large quantity of alewives in the river, he passed Portsmouth bridge. It is supposed he injured himself against the piers, and was evidently afraid to repass it. On Friday morning he was seen by many market people coming down the river. An expedition was immediately set on foot to take him, which was not successful till Tuesday evening at five o'clock, when a harpoon from Mr. Willey took effect, followed by two harpoons and four lances from Col. Decatur, near Pine Point, in the Berwick branch of the Piscataqua, about ten miles from town. He continued towing the boats attached to him, till Wednesday morning, sometimes going with the greatest velocity, and with imminent danger to the boats. He was finally despatched at 7 o'clock, near the bridge, and secured in Spinney's creek, thence carried to Badger's island, where preparations were yesterday made for his public exhibi-

tion. The length of the whale is about 50 feet, and his breadth about 16 feet. His head is shaped like that of the horse, and he differs from all others that have been seen by those acquainted with that species of fish. His motion was undulatory.

**GREAT FALLS COMPANY.**—These works are situated on the great Salmon fall river, in Summersworth, Strafford county, five miles from Dover, and seventeen from Portsmouth, New-Hampshire.

The site on which now stands the beautiful village of Great Falls, was a wilderness five years ago; it now contains 1500 inhabitants, 200 neat dwellings, 5 stores, a tavern and 5 large boarding-houses. The ground for the erection of this "Manchester in miniature," was broken in 1822 by an enterprising individual, who built a frame cotton mill, (which is therefore called Mill No. 1.) It is three stories high, basement and attic 65 by 35; contains 1700 spindles, and 45 power looms, consuming weekly 1600 lbs. of cotton, and producing weekly 6500 yards of shirtings and printing cloths from yarns No. 25; employs nine men and boys, and sixty girls; the girls can earn from \$1 50 to \$2 50 per week, and their board, which is estimated at \$1 17 per week.

In 1818 the present company was incorporated with a capital of \$500,000, and in the spring of 1825, commenced the building of mill No. 2, which is of beautiful bricks, made on the premises; is three stories high, basement and attic 154 by 45 feet, contains 7,000 spindles and 123 power looms; consumes 3300 lbs. of cotton weekly, and produces weekly 4000 yards of shirting, and 15000 yards of printing cloths, from No. 40; employs 40 men and boys, and 175 girls. This mill went into operation in July, 1825.

In 1826, the capital was increased to one million of dollars, and mill No. 3 commenced in the spring, and roofed in the same fall; is 390 feet by 48, four stories high, with a spacious base-

ment and attic; it is calculated for 20,000 spindles, and 600 looms, which will produce 70,000 yards, made of yarn No. 3, and require 12,000 lbs. of cotton per week. It has four water-wheels, two now running, and the gearing now ready for 6000 spindles, which are almost completed, and are expected to be in operation in January next.

This is the present projected and nearly completed establishment, of the cotton department; which, with the woollen mills to be mentioned directly, occupy the present level of 30 feet fall, equal to 30,000 spindles; and this is but one fourth the power. As soon as mill No. 3 shall be filled with machinery, there will be in operation 28,700 spindles, 823 looms; weekly consumption of cotton, 16,000 lbs; average No. of yarn, 33; weekly produce of yards, 95,500—employing 160 men and boys, and 760 women and girls. 95,500 yards per week, gives per annum, 4,966,000 yards, which at 12 cents, is \$593,920 00  
16,800 lbs. of cotton per week, is per annum, 878,800 lbs. which, at 12 cents per lb. is \$105,956 00

Value added to the raw material, \$489,964 00

Capable of being quadrupled, would make value added, in one year, to raw material, \$1,959,856 00

We now come to the woollen mills, one of which is for the manufacture of carpeting. Here, one man makes about 6 yards each loom, per day, and there are 30 in operation—which would of course be 54,000 yards per annum, worth, when finished, about \$1 25 per yard. The fabric is remarkably stout and strong, and with proper encouragement from the government, no doubt remains, that in a little time this manufacture will be extended, and will entirely take the place of imported ingrain carpeting.

The broad cloth mill next presents its commanding appearance, in a building five stories high, basement, &c. 220 by 48 feet, now manufactures 250 yards daily; and has machinery enough to manufacture, per day, four hundred yards.

CANAL.—A meeting was held at Dover on Thursday, November 15th, for the purpose of organizing the New-Hampshire canal and steam-boat company. A vote was passed to accept the act of the seventh of July last, and a committee of fifteen was appointed to prepare a system of by-laws, and proper measures to be adopted at the next meeting in Dover on the 8th of February. The object of this company is to open a water communication between the Piscataqua and the Connecticut rivers, through the waters of lake Winnepisiogee, and the upper branch of Merrimac river.

#### MASSACHUSETTS.

January.—PUBLIC SCHOOLS.—There are in the public schools in Boston, about 7500 pupils. In the seven grammar schools the average number of boys and girls is 500. At the Latin School about 200 boys; and at the English High School, about 140. The South Boston school has about 100 pupils of both sexes; and the African school about 60. The primary schools for children from four to seven years of age, contain nearly 8000 pupils, who are instructed by females. Hence the number of children who receive instruction at the public expense in this city, is but little short of 7500, supported at an expense of \$54,500.

#### BOSTON BILL OF MORTALITY.—

The number of deaths during the past year was 1254. Of these 224 were under 1 year; 123 from 1 to 2; 75 from 2 to 5; 45 from 5 to 10; 50 from 10 to 20; 137 from 20 to 30; 158 from 30 to 40; 117 from 40 to 50; 73 from 50 to 60; 61 from 60 to 70; 45 from 70 to 80; 21 from 80 to 90; 4 from 90 to 100; 87 still born; 34 ages unknown. Of the whole number there died of consumption 231, of dysentery 47, fever 120, fits 45, cramp 24, canker 25, hooping

cough 23, measles 10, intemperance 38, drowned 22, suicide 5, &c. The diseases of 161, unknown.

**February.**—**NEWBURYPORT, FEB. 9.**—On Tuesday morning last, the Essex Merrimack bridge gave way in the centre, from the parting of the chains which supported it. On the bridge, at the moment, was a loaded team, drawn by six oxen and two horses, driven by two men, Messrs. Carlton and Jackman, all of whom were precipitated, forty feet, into the river beneath. The teamsters preserved themselves by means of swimming, and the support of fragments of the bridge; the cattle were all of them except one of the horses, swept beneath the ice a few rods below, and drowned.

Five of the ten chains which supported the bridge, were snapped in different places. At the instant of the crash, the light evolved by the friction of the chains resembled the vivid streaming of a meteor.

Various causes are assigned for the accident, and none, with more probability, than the united effect of the incumbent pressure of the immense body of snow lying upon the bridge, and the frost which had contracted the particles of the iron.—These produced a tenseness in the chains, which was incapable of resisting the additional pressure of the loaded team, and the whole gave way.

The estimated expense of repairing the breach is about 4000 dollars; The preservation of Messrs. Carlton and Jackman is almost miraculous. Although hurled down 40 feet amid crashing and falling timber, entangled with their cattle, they fell without receiving the least injury, and attained the shore, after being for nearly half an hour immersed in water chilled to the freezing point. Mr. Jackman is far advanced in years—and suffered somewhat from the exposure to cold. Mr. Carlton escaped unhurt.

The chain bridge has been built about 15 years; the span is 220 feet.

**LEGISLATURE.**—On the 16th of February, governor Lincoln returned to the house of representatives, where it originated, a bill entitled *An Act to incorporate the Mozart Association in Salem*, with his objections to its becoming a law. The bill proposed to incorporate sundry individuals into a society, for improving the performance of church music, with power to sue and be sued, have a common seal, and be entitled to all the powers and privileges of aggregate corporations. The governor stated his objections at length, concluding with the following summary of his reasons: "In returning, therefore, the present bill to the house of representatives for revision, I specifically object to it, as *unnecessary* for the accomplishment of the purposes expressed in the representation of the petitioners; as *inconvenient* in creating an unsafe precedent for grants to numerous similar associations; as *prejudicial*, and of injurious tendency, in withdrawing from individual management and use, and the operation of ordinary rules, any amount of property, to constitute a capital, permanently and exclusively applicable to the objects of such an institution, and in authorizing any portion of that capital to be held in real estate." On a reconsideration of the subject, the house of representatives supported the governor's views, by a vote almost unanimous, refusing the passage of the bill.

A subject of more importance was the bill for incorporating John Skinner and others as a company for constructing a free bridge to be called *Warren bridge*, by the side of the Charles river bridge, between Boston and Charlestown. This bill passed the house of representatives, where it originated, by a final vote of 53 to 25: and thereupon a protest against the bill was presented by Mr. Bliss, and on motion of Mr. Philips, ordered to be entered upon the journal:

"1. Neither the public convenience nor necessity requires another bridge

in the place contemplated in said act, as appeared by the evidence and the report of the committee charged with the subject.

2. The erection of a free bridge over Charles river, as authorized by said act, would render of no value the reversionary interest of the commonwealth in the existing bridges over Charles river.

3. The granting of a free bridge over Charles river, as authorized by said act, is, in the apprehension of the undersigned, a breach of the public faith in reference to the Charles river bridge corporation, and a violation of its rights, and as a precedent and in principle, tend to diminish the confidence in, and lessen the security of the rights of property.

Afterwards the bill passed the senate by a vote of 18 to 17, when the following protest was presented by Mr. Grennell :

*Senate chamber, March 9, 1827.*

Because the erection of the contemplated bridge in the manner authorized in and by said bill, would destroy the franchise, which the proprietors of Charles river bridge hold under a grant of this government, having all the force of a contract: and because the grant contemplated by said bill would be in violation of the public faith, and of the constitutional rights of the proprietors of said Charles river bridge, and would tend to unsettle the security of private property.

The same was laid on the table, and on motion, ordered to be entered on the journal.

On the 10th, the bill was returned to the house by governor Lincoln, with his negative, and an able and elaborate message, setting forth conclusive objections to its becoming a law, which objections, being summarily stated in the protests of the minority of each branch, we omit to repeat. The message being twice read in the house, the question "Shall this bill pass notwithstanding the objections of the governor thereto," was decided in the affirmative by yeas and nays: the

constitutional majority of two thirds voting for its passage, the whole number of votes being 144, and 99 voting in the affirmative. In the senate the question was decided as follows: yeas, 16; nays, 12.

Two thirds of the members not having voted in favour of its passage, the bill was lost.

Probably no subject of a legislative nature in Massachusetts, has been attended with more feeling than this; but, although governor Lincoln's proceeding was censured by those interested in the bill, yet the great body of the people did justice to the integrity of his intentions, and the independence of his conduct.

The legislature ended its session the same day, having passed 107 acts, and been in session uninterruptedly about ten weeks.

*April.*—**THE ELECTION.**—Votes for governor Lincoln in 206 towns, 22,049; for William C. Jarvis, 6,141; for other persons, 2,572.

**BUNKER HILL MONUMENT.**—The intended corner stone, containing the appropriate medals and inscriptions, deposited by general Lafayette, on the 17th of June, 1825 has been removed, to be replaced in its proper situation, as soon as the work shall have been sufficiently advanced. The two first foundation stones of the monument were laid on Friday, April 20th, 1827.

*May.*—The following is a list of the public benefactions provided in the will of the late William Phillips, formerly lieutenant governor of Massachusetts:

To Phillips' acad. in Andover,	\$15,000
To the Theological Institution	
in do.	10,000
To the Society for propagating	
the Gospel,	5,000
To the Massachusetts Bible	
Society,	5,000
To the Foreign Mission Society,	5,000
To the Medical Dispensary,	3,000
To the Massachusetts General	
Hospital for the relief of	
the sick poor of the city of	
Boston	5,000

To the Amer. Education Society, 5,000  
 To the Boston Female Asylum, 2,000  
 To the Asylum for indigent boys, 2,000  
 To the Massa. General Congrega-  
 tional charitable Society, 5,000  
**Total, \$62,000**

**BLACKSTONE CANAL.**—It is estimated that there are now more than a thousand hands employed on that portion of the canal which lies within the limits of Massachusetts. The locks are to be of granite, built in the most substantial and thorough manner. Large quantities of the material of the best quality have been found, generally very near where it is wanted to be used. The quantity required for the building of a lock, is astonishing to those who have been unacquainted with the business. In one place an acre and a half of land was nearly covered with stone, procured for a single lock.

The great facility of obtaining the stone, the exactness with which it splits out into blocks of a large size, and other advantages enjoyed on the route, will reduce the expense of the locks to about three fourths of the original estimate, and yet make it a profitable employment to the contractors. The excavation has been all contracted for within the estimates, and although the weather has recently been rather unfavourable, the confidence in an early and successful completion of the work, and in the great public utility of the enterprise, is daily increasing.

**CORPORATIONS.**—In Massachusetts, there are incorporated manufacturing companies, 196. Aggregate capital, \$29,765,000. Banks, 54. Capital, \$16,100,000. [15 of which, with a capital of \$10,050,000 are in Boston.] Insurance offices, 37. Capital, \$9,200,000. [22 of these are in Boston, with \$6,800,000 capital.] Total, \$55,065,000.

**SHOES AT LYNN.**—The population of Lynn is over 5000, nearly all of whom are supported by the shoe business. From 1,200,000 to 1,400,000 pairs of shoes are made annually in the town, of an average value of 75

cents per pair, making nearly \$1,000,000. The females of the town earn more than \$60,000 annually by binding and ornamenting shoes. Millions of low priced fancy shoes have been sent to South America, and sold at a profit. There is a chocolate manufactory in Lynn, which makes sixty tons of chocolate in a year. The Lynn fishermen at this time bring in 6,000 pounds of fish daily.

**JUNE — HARRISBURG CONVENTION.** On the 5th of June, a great meeting of persons interested in the prosperity of American manufactures, was holden in the representatives hall, for the purpose of appointing delegates to attend the Harrisburg convention. The hall and galleries were filled to overflowing, and a more respectable and imposing assemblage, probably was never witnessed in Massachusetts. Governor Lincoln was called to the chair, and Mr. Shaw, of Lanesboro', appointed secretary. The proceedings of a recent similar meeting at Philadelphia, were read by the secretary, and a number of resolutions, prepared by the Massachusetts committee, were presented, agreeably to their direction, by Mr. Tappan. The question was stated to be on the adoption of the resolutions. The meeting was then addressed by Messrs. Abbot Lawrence, Edward Everett, J. Shepard, J. B. Brown, and Harrison Gray Otis. A committee was appointed to nominate delegates to attend the Harrisburg convention. The following gentlemen were selected, who were all unanimously chosen by the meeting:

Hon. Bezaiah Taft,	Worcester.
Hon. Edward Everett,	Middlesex.
Abbot Lawrence, Esq.	Suffolk.
J. B. Brown, Esq.	do.
J. E. Sprague, Esq.	Essex.
Col. J. Shepard,	Hampshire.
S. D. Cole, Esq.	Berkshire.

The meeting was then dissolved.

**MANUFACTURES.**—The Worcester Spy contains an article which may serve to give some idea of the importance of the woollen manufacture to the people of that county. By refe-

rence thereto, it will be seen that eleven factories, situated in the towns of Mendon, Uxbridge, Northbridge, and Grafton, when in full operation, will manufacture 2150 yards of satinett, 100 yards of kerseymere, and 330 yards of broadcloth per day, making a yearly aggregate of 672,950 yards of satinett, 31,300 yards of kerseymere, and 103,290 yards of broadcloth. Estimating the average value of these goods, per yard, at 75 cents for satinett, one dollar for kerseymere, and three dollars for broadcloth, the yearly value of the woollen goods, manufactured in these four towns alone, will be *eight hundred and forty-five thousand eight hundred and eighty-two dollars*. This estimate is of but a minor portion of the woollen manufacturing of the county. At Pitchburg, Leicester, Oxford, Dudley, and Southbridge, there are not less, we believe, than fourteen or fifteen factories, some of which are extensive and well known establishments; such, for instance, as those of the Wolcott company in Southbridge, Slater & Howard's, in Dudley, and the Leicester and Bottomly companies in Leicester.

**BUNKER HILL MONUMENT.**—Progress is now making with this great national work. The base is completed, and the laying of the first course now occupies the attention of the architect, Mr. James S. Savage. The base is forty feet square, and is from fifteen to twenty feet within the earth. At the surface it is about 24 feet square. In the centre a circular aperture is left from the first course of the base, which is to extend to the top. Between the wall around the aperture and the outer wall, the stairs are to ascend in a circular form.

**GENERAL COURT.**—The legislature of this commonwealth was prorogued on Saturday evening, June 16th, to the first Wednesday in January, after a session of eighteen days, during which twenty-three acts, and several important resolves were passed, and much other business introduced,

to be acted upon at the next session. Ten thousand dollars were appropriated for a survey of a route for a rail road, from the line of New-York, through the centre of the state, to Boston.

**INTERVAL IMPROVEMENT.**—Nahum Mitchell, of East Bridgewater, and Samuel M. McKay, of Pittsfield, have been appointed commissioners to survey the country between Boston and the Hudson, to select a route for a railway; and James F. Baldwin, of Boston, as engineer. The resolutions adopted by the house of representatives, authorize the appointment by the governor, of two commissioners, and a suitable engineer, whose duty it shall be, immediately to cause the necessary surveys and plans to be made for a railway, from the city of Boston, westward, to the line of the state of New-York, and thence to the Hudson river, at or near Albany; and to cause also the necessary estimates to be made of the expense of constructing such railway. Ten thousand dollars are appropriated for defraying the expenses of the survey, &c. A motion to limit the extent of the route westward to Connecticut river, was rejected by a large majority.

The survey of the commissioners is to be extended into the territory of the state of New-York; and the governor, in compliance with the direction of the legislature, addressed a communication to governor Clinton, enclosing a copy of the resolves of the legislature, relating to the survey, announcing to him the appointment of commissioners, and requesting from him that countenance and favour which might warrant the commissioners in making, within the state of New-York, the inquiries, surveys, and measurements necessary to the execution of their commission. Governor Clinton, in answer, with great cordiality, signified his assent to the proposed survey, so far as the executive of that state was concerned; and that the success of this important undertaking, from its commencement to its consum-

ination, would be viewed by him with great interest, and high gratification.

Independently of these commissioners, a permanent board of internal improvements has been appointed, consisting of Josiah J. Fiske, of Wrentham, Willard Phillips of Boston, and James Hayward of Boston, the latter being also engineer of the board.

Boston, June 16.

**Franklin Monument.**—Yesterday afternoon was laid, by the president of the mechanic association, the first stone of the Franklin monument. The monument is erected by the citizens of Boston, in the granary burying ground, to the memory of Benjamin Franklin, over the tomb in which repose the remains of both his parents. The ceremony was witnessed by a number of citizens, among whom were the governor and lieutenant governor of the commonwealth, and other officers of the government, the officers and many members of the mechanic association. A piece of plate, with an appropriate inscription, and some medals, were placed under the stone. The monument is a pyramid, twenty-five feet high, and formed of blocks of granite, of about six tons weight each, taken from the Bunker Hill monument quarry.

**August.**—**PROVIDENCE RAIL-ROAD**—The Boston Daily Advertiser states that the commissioners of internal improvements have made an examination of several routes between Boston and Providence, and have found the country extremely favourable for the construction of a rail-road. They have not yet decided which is most eligible, but they have satisfactorily ascertained that a route may be selected, which will be as direct as that of the present turnpike road, and which, without any very expensive digging or embankment, may be made very near a level.

**AURORA.**—On Tuesday evening,

August 28th, a magnificent display of the aurora, in a form, position and direction, such as are seldom witnessed, was observed in Boston, Salem, Newburyport, Portsmouth, and other towns, which is well described in the Newburyport paper.

The light began with intermittent flashes in the east, a few degrees north of the zenith, and proceeded more regularly and equably till it had bound the whole visible horizon with a broad belt, extending from east to west, shifting and unequal, with its edges more distinctly defined than is commonly witnessed in the boreal aurora. It moved slowly to the southward, and having passed about 12 degrees south of the zenith, gradually growing fainter from east to west, entirely disappeared. Through the fluid was distinctly visible the minutest star, and beneath it is said to have passed a thin scud. The vapour rolling from east to west, resembled the successive billows of the ocean chasing each other upon the beach, and was supposed by many to be the substance itself of the aurora. Immediately before the appearance of this phenomenon, the northern lights were remarkably brilliant, and during the presence of this luminous belt were imperceptible, again to shine forth with their previous brilliancy, on the disappearance of the phenomena.

**September.**—A rock weighing about 3000 pounds was thrown into a house in Gloucester, a short time since, by some workmen who were blasting. It made sad havoc with the furniture, but fortunately no person was injured. Another, weighing nearly 5000 pounds, was thrown into a shop adjoining. More than a hundred panes of glass were broken in the neighbourhood, by the explosion.

**VIEW OF THE COLLEGES.**—The following table shows the number of graduates in the principal colleges of New-England for four successive years.



Colleges.	1824	1825	1826	1827.
Waterville, (Me.)	3	3	7	14
Bowdoin, (Me.)	13	37	31	32
Dartmouth, (N. H.)	28	26	37	36
Vermont University,	9	13	13	14
Middlebury, (Vt.)	24	16	19	15
Williams, (Mass.)	15	19	24	31
Amherst, (Mass.)	17	23	32	23
Harvard, (Mass.)	67	58	53	47
Brown Univ. (R. I.)	41	48	27	33
Yale, (Con)	68	68	100	79

285 311 343 324

**October.**—A new suspension chain bridge across the Merrimac, between Newburyport and Salisbury, began in 1826, was completed at this time, under the superintendence of Mr. Thomas Haven, of Portsmouth, as architect, who deserves credit for the plan and execution of the work. It commences at Newburyport, with an abutment of thirty-eight feet in width, consisting of two walls of split stone, built on a foundation of pine logs laid over the flats, and filled up with sods, covered by a gravelled road of two feet in thickness. The length of the wall, on the south east side of the abutment, is 541 feet; on the north west side, 440 feet. At the extremity of the abutment, is the draw, 38 feet wide, height from common high water 12 feet, depth of water 13 feet. The draw pier is built up to within two feet of high water mark, with pine logs in cob-work, its base 28 feet by 40, having a break-water united to it of 20 feet by 30. The outer spaces of the cob-work are filled from the bottom with stones, and around the outside of the pier stones are thrown to fill up to low water mark. The upper part of the pier consists of granite stone work 15½ feet in height, 38 feet by 25 being the dimensions on the top. Not less than 1800 tons of stone were used in the construction of this single pier. On the Salisbury shore is another abutment 240 feet in length, constructed in the same manner as the first, except that the head of it is a solid mass of stone, 40 feet by 40 on the surface, and 20 feet 9 inches high, and supporting a small tower of stones.

Between this abutment and the draw pier are four other piers, constructed like the first, only with more base as the water increases in depth, the depth at low water being at one of these four piers 15 feet, at the next 17 feet, at the next 20 feet, and at the last 18 feet. On each of them is a wooden tower 31 feet high, double posted with timber 14 inches square, the base 38 feet by 20, boarded, shingled and painted, having two passage ways, each 11 feet 9 inches wide in the clear, and 15 feet high in the centre. Those parts of the bridge which cover the five spaces between the piers, amounting to 827 feet in all, are suspended by means of iron chains passing over the four wooden towers, and fastened to the draw pier at one end, and to the abutment at the other extremity of the bridge. The chains are twelve in number, six for each travel-way of the bridge, or three on each side of each way, composed of links two feet in length, the iron being one inch thick. Suspenders are fastened to the chains by a bale in the form of a half circle, with ears which pass through the links of the two outside chains of each groupe of chains, a dog made of inch iron passing through the ears of the bale over the outside chains, and resting on the centre chain. Each chain is shackled to a saddle on the top of the tower, which is supported by iron shrouds passing down the opposite side of the tower, and fastened to the stone work of the pier beneath. Beams 18 feet long and 12 inches by 6 thick, are fixed in the bottom of the suspenders, across which are laid the stringers 27 feet long, and over these the plank, 12 feet long and 4 inches thick, which constitute the suspended part of the travelled way of the bridge. By this mode of construction, the greatest possible security is attained, consistently with the plan of the bridge, inasmuch as one half of it can be removed or repaired without impeding the travel, and a link, or suspender, or one of the chains, can be removed or repaired without endangering the security of the rest of the

**work.**—The bridge is also a highly beautiful and ornamental structure, and therefore is a most conspicuous and striking object of attention in the harbour of Newburyport. All the expenses of building the bridge itself were \$53,700, and of a turnpike road of 560 rods, belonging to it, \$12,800, making the whole cost to the proprietors \$66,000. By means of it, and of a road through the town of Rye, undertaken in connexion with it, there is a saving in distance of four miles between Portsmouth and Newburyport. The entire length of the twelve chains is 11,380 feet, and the weight of iron expended on the bridge 98 tons, 11 cwt. The length of the bridge and abutments from high water mark to high water mark, is about 1700 feet, leaving for the bridge, exclusive of the abutments, about 1000 feet.

The Essex bridge between Newbury and Salisbury having been rebuilt with chains, and a new chain bridge being projected at the Rocks village, between West Newbury and Haverhill, there will be three suspension chain bridges of uncommon beauty and boldness of appearance across the Merrimac, within the space of a few miles.

**Destructive Fire.**—On Monday night, October 22d, the Barnstable county house was destroyed by fire, with the valuable records of the probate office, registry of deeds, and papers of the clerk of the courts. Only one book of probate papers was preserved; the cause of the accident is not known. No person resided in the building. The night was stormy, and the accident may have been occasioned by lightning; but there are suspicions that it was the work of an incendiary.

**November.**—**QUINCY RAILWAY.**—The following account of this railway is given in the newspapers:

Length 3 miles, descent 86 feet from the base of the granite quarry down to the wharf; breadth 5 feet from inside of one rail to the inside of the opposite one. Horse path, between the two rails 3 feet 3 inches wide.

The plank rails are of pine, 10 inches in height; with caps of red oak, 2 inches thick, by 3 inches wide. Sleepers, or transverse beams, are of granite, 7 feet long, on which the rails rest; these sleepers are at distances of 8 feet apart. The wrought iron rails are laid on the red oak caps, and are 2 inches wide, and  $3\frac{1}{8}$ ths of an inch thick; 27 tons 3 cwt. 14 lbs. of iron, including screws, are used to each mile, making short of 62 tons of iron for the 3 miles. This railway was opened for use on the 16th September, 1826, and has been since constantly used for the transportation of granite—generally 60 tons per day. One horse has drawn 22 tons, including the weight of the two wagons, from the quarry down to the wharf; but the ordinary load of a horse is from 12 to 14 tons. One horse usually draws 2 wagons. By way of experiment, one horse drew 15 tons up an elevation at the rate of 66 feet 6 inches in the mile, a distance of 200 feet. The wheels of the wagons are 6 feet in diameter; the axle tree 3 inches in diameter. Weight of wagons, 3500 pounds each.

The object of this railway is to transport granite from the quarry in the town of Quincy to the wharf in the harbour of Boston, and thence it is conveyed in vessels towed by steamboats to Boston and to Charlestown for the Bunker Hill monument.

**STATUE OF WASHINGTON.**—A beautiful edifice having been erected, on the northern facade of the state house, for the reception of Chantrey's statue of Washington, it was, at the close of October, placed upon the pedestal, in the presence of the officers of the society, which was organized in 1811, for accomplishing this glorious object, and is now freely exposed to public examination.

The statue is of white marble, from the quarries of Carrara; the figure is slightly colossal, being nearly seven feet in height, and represents the illustrious father of his country, in a civil costume; like that in which he usually appeared, while President of

the United States; but so ingeniously arranged, as to give to the whole the elegance of Grecian and Roman drapery. The left foot is slightly advanced, and the weight of the body is chiefly thrown upon the right leg; the head is turned a little to the left; the right arm is at liberty, falls gracefully by the side, and the hand grasps a scroll. The cloak is sustained on the left shoulder, leaving that of the right exposed, and disclosing the collar, and a small portion of the breast of the coat. In the rear it descends to the ground; the left arm, enveloped in the ample folds, crosses the chest, and the hand—exquisitely sculptured—elevates and sustains the diaphery in front, so as to exhibit the feet and the lower part of the legs. The physiognomy combines the fidelity of *Hendon's* bust, with the living likeness that glows in *Stewart's* picture. The attitude is tranquil, easy, and natural, yet firm and dignified; the expression serene, frank, and majestic, giving to the whole figure, that calm and imposing presence, for which *Washington* was so distinguished. Since the decline of the fine arts in Greece, there has been nothing produced, which can better sustain a comparison with the works of her renowned sculptors, than this chef-d'œuvre of the British *Phidias*.

The dimensions and form of the edifice were prescribed by *Chantrey*, but *Mr. Parris* furnished the plans of the architectural details, and superintended its erection. The exterior is semicircular, and rises as high as the first story of the State House, with which it happily harmonizes, both in the structure and colour of the walls. The main portion of the interior is a vaulted parallelogram, thirteen feet wide and thirty long. Opposite the entrance, which is from the spacious doric hall, is an arched recess, often by thirteen feet, in which the statue is placed. The walls are fourteen feet high to the impost of the arches, which are beautifully or-

namented by stucco pannel work, in crenx. The light is admitted through a glazed metallic frame that crowns the dome, in which the vaults are elegantly united. The pavement, which is formed of marble tiles, is supported upon substantial arches, in masonry.

The pedestal is of white marble, four feet and a half high; the die, which is about three feet long, and two wide, rests on a bold and massive base, and is surmounted by a neat cornice.

The whole edifice is constructed of the most solid and durable materials; no others being used, than those of masonry and the metals, without the incorporation of any wood. All the work has been executed in such a thorough and perfect manner as to unite the greatest strength and beauty; and does credit to the science and taste of the architect, and the skill of the various mechanics who have been employed.

*December.*—MARINE HOSPITAL.—The inmates of the U. S. Marine Hospital, in this town, were removed some months since to the new edifice at Chelsea. This building is in an elegant and healthful situation, in view of the north part of the city, on the Chelsea shore. It is a handsome edifice of hewn granite, two stories in height, with a basement and an attic; the main building is 105 by 50 feet, with two wings, projecting three feet on each side of the building, being 22 feet by 56.

This building was erected by the surplus funds collected in this State, all seamen in employ, paying 20 cents per month of their wages for the support of Hospitals, where, when sick or "disabled," they can receive gratuitous attention. There are several acres of land connected with the establishment. The expenditures of the institution are regulated so as to come within the receipts in this State. Seamen are permitted to stay four months, and if not then restored, are sent home. They receive the best atten-

tion; and are afforded every convenience which their situation may require.

The average number in each quarter is about 100, though some of them probably do not stay but two or three days, or as many weeks. The deaths generally average one in twenty. Returns of the name, age, disease, native place, time of entering and leaving, &c. are made quarterly to the Secretary of the Navy.—The salary of the physician is 1000 dollars, and of the steward 500 dollars.

**Salt Works.**—The New-Bedford Courier estimates the whole quantity of salt works in New-England at 13,000,000 square feet of surface.—The removal of the duty on foreign salt, which has been urged by some, would destroy this useful branch of domestic industry.

#### — RHODE ISLAND.

**May.**—**SILK.**—Joshua Clarke, Esq. of South Kingston, has made extensive preparations for the cultivation of the silk worm, and has planted, this spring, upwards of 6,000 mulberry trees, on which the silk worm subsists; and will, the next season, plant a larger number. The cultivation of the silk worm has been carried on with considerable success, in Vermont, Massachusetts, and in some other of the New-England and Middle States.

**June**—**ELEGANT EMPLOYMENT.**—There is a lace school or manufactory established at Newport, which gives profitable employment in this new branch to 500 young females; and the various articles of their ingenious and tasty needle will bear comparison with any thing of the kind ever imported.

**HARRISBURG CONVENTION.**—At a meeting of farmers and manufacturers in Rhode Island, held at Newport on the 29th, Hon. James Rhodes in the chair, Messrs. Asher Robbins, Jeffrey Hazard, David Wilkinson, John Farnum, and James Rhodes were appointed delegates to the convention to be held at Harrisburg.

**November**—**TAXES.**—The taxes paid by the 44 banks in Rhode Island, in six months, amounted to \$8,975 93

— of which, the banks in Providence paid about 4250. The tax collected from lotteries in six months, was \$6000—and 4000 appears to remain uncollected. The auction tax for six months, was \$1619—of which, Providence paid 1498. The whole expenditures of the state, for the last six months, have been only \$3585 19—while the revenue has been 13,033 65.

**BLACKSTONE CANAL.**—Length 45 miles, breadth 18 feet at the bottom, and 34 feet on the surface of the water. There are 18 stone locks, which overcome a rise and fall of 450 feet. Depth of water in the canal 4 ft. Locks 82 ft. long, by 10 broad. Cost \$500,000. Estimated revenue 55,000 to \$60,000. The supply of water is principally from the Blackstone river; but there are several ponds, one of which, near Worcester, covers 2500 acres, which in case of need, can be used as feeders.

This canal commences in the harbour of Providence, Rhode Island, and extends to Worcester, in Massachusetts. The articles to be transported on it are lime, granite, anthracite coal, (from the town of Cumberland, 12 miles north of Providence,) and agricultural products in descending. The ascending trade will consist of cotton, wool, iron, flour, corn, groceries, and a great variety of articles, for the supply of the very large manufacturing population in the valley of the Blackstone river. This canal will increase the water power of the Blackstone river, and will furnish besides several additional mill privileges. It is expected to be completed some time next summer.

#### CONNECTICUT.

**March.**—**FARMINGTON CANAL.**—This grand enterprise, we understand, will be completed in a few months. The Irishmen are opening vigorously along the line of the canal, particularly in the city of New-Haven, and the citizens are very sanguine in their hope of the ultimate success of the design. A considerable number of buildings have already been removed or taken down, and others are now sharing the same fate. It is believed that

not only the city, but the whole country through which it passes, will be benefitted by the facilities for the transportation of produce which it will present.

**STEAM BOAT DISASTER.**—On Thursday evening last, about half past 7 o'clock, 7 miles from Saybrook, on the passage to New-York, the steam boat Oliver Ellsworth met with a serious disaster by the bursting of the main flue of the boiler, and also bursting out the furnace head or cap. Seven of the passengers, the steward, engineer, and fireman of the boat, were scalded; the latter, and one passenger, died the next morning. The water from the boiler immediately extinguished the fire, thereby occasioning a dense column of smoke mingled with steam, which partly filled the cabin, nearly producing suffocation, until fresh air was admitted by breaking the cabin windows. There were 12 or 15 passengers in the after cabin when the explosion took place, several of whom being near the cabin stairs, ran immediately on deck, and were badly scalded—coming in contact at that moment with the steam from the boiler. The other passengers who remained in the cabin, escaped uninjured, and soon after repaired on deck, at the call of the captain for all to leave below, to prevent suffocation. The steam boat proceeded back on her way towards Saybrook by means of her sails, and was obliged to anchor about two miles distant from the town. The Oliver Ellsworth was towed to Saybrook the next day by the M'Donough.

**May.**—**CONNECTICUT ELECTION.** Majority of Mr. Tamlinson over governor Wolcott, 2326. Lieut. governor, J. S. Peters. Treasurer, Isaac Spenser; secretary, Thomas Day.

For congress—Ralph I. Ingersoll, Elisha Phelps, David Plant, Orange Merwin, John Baldwin, Noyes Barber.

Among the governors of Connecticut, there have been two Trimbulls, father and son; two Griswolds, also father and son; and three Wolcotts, father, son, and grand son; the latter of whom is the present governor.

**EAGLE BANK OF NEW-HAVEN.**—The agents of this bank made their report to the General Assembly of Connecticut, in session, at Hartford. They state, that though most of the debts due to the bank, which grew out of *ordinary business*, have been paid, yet that of the great mass of indebtedness, arising from unprecedented loans to a few individuals, much of it without any, and all without adequate security, there still remains due nearly *fifteen hundred thousand dollars*. The agents further state, that they have "reason to believe that a great amount of property belonging to the debtors has been secreted or withdrawn from the jurisdiction of the state: but as some of the principal debtors are now confined in the state, they are not without expectation that further collections, by compromise or otherwise, will be made. Under these circumstances, very little, as yet, has been collected, to constitute a fund for a dividend among the creditors of the bank. The agents have not deemed it advisable to avail themselves of the provisions of the act of 1826, which authorizes the Superior Court to limit the time of exhibiting claims, and to declare a dividend thereon, believing that the interests of the creditors would be thereby promoted."

The committee further report, that they have endeavoured, both by persuasion and coercion, to effect a collection, and obtain security for these debts, but have succeeded in part only; considerable security had been obtained by attachment on property; the collection of a large sum so secured, has been delayed, the property being replevied, on insufficient bonds.

The school fund of this state produced during the year ending April 1st, 1827, \$94,100, for interest and rents, besides \$52,072 of principal paid into the treasury, of which 40,702 was reinvested.

**July.**—**EXTRAORDINARIES.**—A New-Haven paper, of the 8d of July mentions, that on a haul of fish, made there on the 2d, there were 25,000 white fish, (bass,) a large quantity of blue and weak

fish, (suckermog) and seventeen large *sharks*, from seven to ten feet in length. The latter made destructive work with the net, and, although not able to escape themselves, gave opportunity for the escape of at least 50 000 white-fish.

NEW-HAVEN, July 7.

**FARMINGTON CANAL.**—The treasurer made his report to the annual meeting, by which it appears that the sum of \$542,017 has been expended upon the canal, viz: for preliminary surveys \$3,026; for procuring charter, salaries of officers, &c. \$1,310; for instruments, wagons, &c. real estate and damages, \$10,662; for construction, \$524,019.

That the funds of the company for future expenditures amount to 107,312 dollars, consisting of instalments due, and of cash in the hands of the treasurer.

The superintendent made a report, from which it appears, that about seven-eighths of the canal are finished and paid for.

NEW-HAVEN, July 10.

**HAIL STORM.**—Late in the afternoon of the 6th inst. a part of the town of Orange, adjoining New-Haven, was visited by a very severe hail storm. The stones were very large, and perhaps for a mile in breadth, fell to the depth of two inches. The corn, rye, &c. was completely cut down—the mulberry trees and peaches were stripped from the trees, and thousands of panes of glass were broken in the houses. Next morning heaps of hail lay upon the earth. At one place, in a hollow formed by two steep banks, the stones had washed and lodged against the fence and weeds in such quantities, that at 10 o'clock next morning, there was a body of them 10 inches in thickness, exposed to the direct rays of the sun.

**August.**—A Norwich paper of Wednesday says, "An earthquake was experienced in this vicinity, on Saturday night, 10 o'clock, which lasted about a minute, attended with a noise much resembling the report of heavy ordnance. So powerful was

the tremulous motion produced, that in several houses, dishes, &c. were thrown from their places."

The shock was felt severely in other towns in Connecticut and at Westfield in this state. It was also felt at sea, and occasioned an unusual swell.

**December.**—The Stonington Telegraph gives an article showing the amount of the several returns of cargoes of sealing vessels, sold at public auction in that borough, since November, 1819. It appears that the total amount realized from the sales of the seal skins alone, was no less than \$10,717 dollars and 8 cents.

#### VERMONT.

**January.**—**METEOR.**—A brilliant meteor was seen from Burlington, Vt. on the 21st inst. It appeared in the south east, was visible about two seconds and disappeared in the south west. Its light exceeded that of the full moon, and its colour that of iron in a state of fusion. Just before it disappeared, a considerable scintillation took place. The parts detached seemed to take a direction contrary to that of the meteor, gradually diverging from each other. No report was heard, though listened for attentively for several minutes. •

**March.**—**PROVIDENTIAL DELIVERANCE.**—About nine o'clock, on the morning of the 22d inst. the jail in St. Albans, Vt. was discovered to be on fire, and so rapid was the spread of the flames, that it was found to be impossible to save the building. It was found upon inquiry, that the prisoners were not all out; there being still one in the upper or debtor's room of the prison, and no way of liberating him with safety, except by breaking through from the outside. Ladders were immediately raised to the double barred window, and exertions commenced, with axes and crowbars, to force the bars from their places; but efforts to this effect were fruitless. The flames were soon communicated to the roof of the prison, and exertions were ceased at the window, to extinguish the flames. The roof was mounted by a few resolute hands, who, in a short

time, had the timber all thrown off.

A hole sufficiently large to admit the body of a man, was then made into the cell, and the prisoner rescued. He was so much choked with the smoke and soot, that after he was released, his life was despaired of; but he is since happily restored to health and liberty.

**June.—NEW MEDICAL SPRING.—**

It appears by a communication in the Rutland Herald, that a medicinal spring, said to be of much value, has recently been discovered in the south-east part of Clarendon, Rutland county, Vermont. It rises from the side of the Green Mountain, about a quarter of a mile above its base, and discharges, it is presumed, two or three gallons per minute. The water is of that low temperature, usually denominated cold, and is perfectly limpid at the moment of its exit; but immediately makes a copious reddish brown deposit, which, in quantity, will equal a cubic of 12 feet. A hemlock bark, which, for ten days, had been used as a spout for conveying the water, was covered with the reddish brown precipitate, a line in thickness; and at the edge of the stream, which flowed over this bark, it is almost as deeply blackened as if it were stained with ink. Experiments were made at the spring, and professor Silliman states that the water is, without doubt, a chalybeate, and the iron is suspended by carbonic acid.

**HARRISBURG CONVENTION.—**A meeting of farmers and manufacturers in Rutland, was held on the 27th. The number which attended the meeting, was about one hundred, all of whom were from eight of the twelve counties in the state—the other four, it is presumed, were unrepresented. The meeting was organized by the choice of the Hon Elijah Paine, of Williamstown, as chairman, and Robert Temple, Esq. of Rutland, as secretary. The objects of the meeting were briefly stated by William Jarvis, Esq. of Weathersfield; the resolutions and address of the Pennsylv-

nia society were read, and a committee of one from each county represented, was appointed to report resolutions expressing the views of the meeting. The meeting was then adjourned to 3 o'clock, P. M.

In the afternoon, the committee reported agreeably to their instructions. The resolutions were adopted unanimously. The following gentlemen were chosen as delegates to the Harrisburg convention, viz: Messrs William Jarvis, Rollin C. Mallory, Elijah Paine, William Hall, Heman Allen.

**September.—VERMONT ELECTION.**

On the 4th inst. the freemen of the several towns, assembled for the purpose of electing state officers for the ensuing year. Governor Butler was re-elected, though not unanimously, as Messrs. Crafts and Doonittle received a considerable number of votes. Messrs. Olin, Dana, Crafts, and Whitney, were supported for the office of Lieut. Governor.

**October.—CALAMITY**—The new arch bridge, erecting over Onion river, by Samuel and James Williams, at Mr. Brewster's works, in Burlington, Vt. of 143 feet span, and 23 feet from the water, fell on the 26th, while six workmen were upon it. The stay-lath to the false bridge gave way, and it swayed down the stream, which let the bridge suddenly fall into the water. All the men received some injury; and one man, by the name of Artemas S. Whitney, had several of his ribs broken, and was otherwise severely bruised, but is not considered dangerous.

**November.—LEGISLATURE**—The legislature of this state continue in active session. On the 31st ult. the following resolution passed the assembly by a majority of 164 to 83—one half of the minority expressing themselves attached to the administration, but were doubtful of the constitutionality and expediency of any legislative proceeding on the subject.

**Resolved,** That in the opinion of this house, the policy adopted by the present administration of the general

government, is well calculated to promote the permanent prosperity of the nation, and is approved by the people of Vermont; and that the re-election of JOHN QUINCY ADAMS to the presidency of the United States, is an object highly desirable.

The expenses of the government of this state, for the last year, amounted to \$52,039 46, of which \$3,090 were applied to the school fund, and \$2,660 to printing a new edition of the laws of the state.

CONSTITUTION.—The council of censors, of this state, have agreed to propose, as amendments to the constitution, the establishment of a senate, as a co-ordinate branch of the legislature, to consist of twenty-eight mem-

bers, the lieut. governor to be, *ex-officio*, the president, and to have the casting vote. The convention, for accepting or rejecting these amendments, is to be held at Montpelier on the 26th of June next.

MANGANESE.—An extensive bed of "Manganese," of the purest kind, has recently been discovered in Chittenden, in this county, on the farm of Wolcott H. Keeler, Esq. We are informed that 50 tons have already been dug. Mr. Jacob Davy, of Fairhaven, and Mr. Barnard, of Chittenden, are engaged in it; and it is apprehended, that it will prove to be a very profitable business to them. It is said to be worth about \$50 per ton.

## THE MIDDLE STATES.

### 1796.1 NEW-YORK.

July.—A question has been long pending between this state and New-Jersey, concerning the boundary line between them. The most important part of this question relates to the Hudson, the whole of which is claimed by New-York, on the ground, that the Hudson river by name, was specially granted by the king to the original proprietor, the Duke of York, and that inasmuch as no portion of that river had been granted by him to the proprietors of New-Jersey, it still belonged to the old proprietary or royal government of that province, when it became independent; and of course continued under the jurisdiction of the state government, and became part of its territory as a sovereign state.

On the other hand, New-Jersey claims to the middle of the channel, and contends, that all navigable rivers belonged to the king, and that that peculiar portion of his sovereignty vested in the states as part of the confederacy, and not as individual and independent powers; and consequently that so far as the Hudson constituted the boundary line, it was to be divided between the two states, as all boundary rivers between countries are divided, when no

conventional agreement exists respecting them.

Several attempts have been made to reconcile the conflicting claims of the two states to the river, as well as to Staten Island, which is also claimed by New-Jersey, but they uniformly proved unsuccessful. A law was finally passed by New-Jersey, which will probably bring this question before the proper tribunal for a judicial decision. This law made it highly penal for any person to execute the process of another state within the territorial jurisdiction of New-Jersey, and an occasion was given this month for the enforcement of that statute.

The city of New-York, for the purpose of saving herself from the burthen of supporting a great number of foreign paupers, thrown in upon her in the shape of emigrants, has required that the captains of vessels bringing in such population shall pay two dollars a head on landing them, or enter into sufficient bonds that they shall not, for the space of two years, become a city charge.—To avoid this responsibility and expense, ship-owners and captains frequently resort to other ports, and especially to Amboy, where no such requisitions are made. In the present



instance, a vessel had come into Amboy, from Ireland, freighted with emigrants. They were landed in compliance with the regulations of the port. Some of them, as might be expected, soon found their way to New-York.—The authorities of that city issued their process to the sheriff of Richmond and ordered him to bring forth the body of the captain. The sheriff (or deputy) accordingly went on board the vessel in the stream, at Amboy, only a few yards from the wharf, seized upon the captain, and took him off to New-York. The next day he had the imprudence to land at Amboy for some purpose or other, and was himself taken into custody, examined and sent to prison for a violation of the statute of New-Jersey, which imposes a heavy fine and long imprisonment.

This arrest of a public officer compelled the state of New-York to vindicate her claims to the territory in dispute. The subject was presented to the legislature at its meeting in January, 1827, by Governor Clinton, and commissioners were appointed to meet commissioners to be appointed by New-Jersey, with the view of settling the dispute by compromise. Several meetings were had during the ensuing summer; but after much negotiation, finding that no satisfactory arrangement could be made, the commissioners separated and the question was left to the adjudication of the legal tribunals.

**August.**—**INDIAN LANDS.**—A treaty was held at Buffalo this month, with the chiefs of the several remnants of Indian tribes residing in this county by Oliver Forward, Esq. commissioner on the part of the United States, and John Greig, Esq. agent of the proprietors, of the pre-emption right of the Indian lands in the western part of this state. The result was the purchase, on the part of the proprietors, of the *Cunawadæ* and *Gardenw* reservations entire, part of the Tonawanta, and about 15,000 acres of the Buffalo Creek tracts—possession to be given in two years from the ratification of the treaty by government. The sale from the Buffalo Creek reservation was made

from the southern part of the tract, the natives choosing to retain their present location near Buffalo. In consideration of these lands, the Indians are to receive annuities to the amount of about \$1,600, exclusive of such reasonable compensation as may be made for improvements on some of their reservations.

The celebrated Indian chief, Red Jacket, opposed every proposition to part with a foot of their land, by an eloquent appeal to his red brethren against the encroachment of his white brethren on their territory. Red Jacket is now nearly 70 years old, yet when called to preside in the councils of his nation, and to give his opinion on any important subject, he rises with all the vigour and animation of former years; and his language, gesture, and every look, evinces a talent at forensic eloquence, which is not, perhaps, excelled but by a few men in the union. He, however, so far yielded his own opinions, as to sign the treaty.

**September.**—About 8000 persons have visited the springs at Saratoga during the present season—1000 passengers often arrive at the city in one day in the steamer boats on the Hudson and Fortm only, and perhaps it may be reasonable to calculate that, during three months in the year, there are not less than 10,000 persons from the south continually in the state of New-York, on account of health or amusement.—The average expenses of these, for travelling and subsistence, cannot be less than ten dollars each per week, or a total of \$1,300,000. The whole annual amount derived from these sources, may then be estimated at more than *two millions*.

A convention was held this month, (September) at Utica, and De Witt Clinton was unanimously nominated as a candidate for Governor, and Henry Huntington as Lieutenant Governor of the state, at the ensuing election.

**MORGAN'S ANGERIOS.**—On the 14th inst. William Morgan, whose name is now unfortunately too celebrated, was taken from the jail of Canandaigua, where he was confined upon a judgment in behalf of one Chess

borough, who seems to have been concerned in the abduction, and was transported to the Niagara frontier, where all traces of him were lost.— But little doubt now exists of his having been murdered by those, to whose custody he was committed. The cause of this extraordinary abduction seems to have been the threat of Morgan to reveal the secrets of masonry; and some misguided members of that fraternity, in order to prevent the publication of a book of Morgan's composition on that subject, determined upon this dreadful expedient. Such particulars as transpired of the transaction are detailed in the trial of Hayward and others, (vide page 507, 2d part) but the whole affair was so much enveloped in mystery, that both his fate and the mode of his execution still remain unknown. After some time had elapsed subsequent to his abduction, ~~about~~ hearing any thing concerning him, great excitement began to prevail in the western counties of this state against the whole masonic fraternity, which was accused of having been privy, as a society, to this nefarious business; and the subject was finally brought before the legislature by petitions signed by the mass of the inhabitants of those counties, where it was referred to a committee consisting of Messrs. Granger, Brasher, Sill, Barstow and Cowles. The report of that committee contains a statement of the affair, and the means proposed to ascertain the perpetrators of the crime, and is as follows:

Mr. Granger, from the select committee to whom was referred the petitions from the western counties, in relation to the forcible abduction of one William Morgan, a citizen of the state, reports—

That these petitions are signed by many highly respectable committees, who have been appointed on behalf of their fellow citizens, to ascertain the facts connected with this most flagrant violation of the rights of a citizen, by which he has been deprived of liberty, if not of life.

These petitions set forth, that on the 17th day of September last, the said

William Morgan was, by colour of criminal process, taken from the village of Batavia, in the county of Genesee, to Canandaigua, in the county of Ontario; that, upon examination before a magistrate, the said Morgan was discharged; that he was subsequently, and upon the same day, arrested upon a demand against him, upon which judgment was obtained, and he confined within the gaol of the county of Ontario; that on the evening of the 12th of September, certain persons who had been previously engaged in procuring the seizure of Morgan at Batavia, and in his subsequent removal to, and confinement at Canandaigua, discharged the debt for which he had been committed, and caused him to be liberated from prison: that on leaving the prison, the said Morgan was violently seized, and against his consent forced into a carriage, which was rapidly driven from said village of Canandaigua, since which time no certain information has been obtained concerning him, and that with this deprivation of liberty are connected many circumstances, which create a belief that he has been deprived of life.— The foregoing averments are embraced in all the petitions before the committee.

A portion of the petitions further represent that said Morgan was conveyed to the Niagara frontier, where they allege that he was murdered on the night of the 14th of September last; and they all join in the belief that the conspiracy against this citizen was extended through several of the western counties, and was the result of a previously concerted plan.

Under these circumstances the petitioners represent that the courts of a single county are inadequate to the emergency, and ask the interposition of legislative authority, to procure a full development of a plot so base in design, so fearless in execution, and fraught with consequences so dangerous to the liberties of our people.

Your committee have delayed their report with the expectation, that the promised testimony would be furnished

to substantiate the charges contained in the petitions.

Within a few days several affidavits have been forwarded to your committee, none of which reach the most severe allegations of the petitioners.

From the testimony adduced, no doubt remains in relation to the unlawful seizure and removal of Morgan, for which offence several persons were arrested, and having pleaded guilty to the indictments found against them, are now suffering the penalties of the law in the gaol of the county of Ontario.

The situation of this unfortunate man after leaving Canandaigua, so far as legal proof has been furnished, is still left to conjecture; but by the affidavits presented, many circumstances are brought to bear upon the allegation that he was taken to Niagara, whatever may have been his subsequent fate.

The strangest proof in support of this position is to be found in the affidavit of *Paul Moser*, which, though resting principally upon information derived from others, when not under oath, carries to the minds of your committee a belief of its general correctness. This affidavit is partially corroborated by the certificate of *A. G. Hinman*, a justice of the peace for the county of Niagara, setting forth the proceedings had before him against one *Eli Bruce*, of said county. An affidavit of *David Maxwell* is also presented, which may be considered as having a collateral bearing upon this point, touching the probability of Morgan's removal towards the Niagara river.

An attested copy of the affidavit of one *William Terry*, of Niagara, Upper Canada, has been presented to your committee; much as this deposition may be calculated to create the dreadful belief that the life of Morgan was taken at Fort Niagara, the statements contained in it are too undefined in their character, to warrant your committee in acting on them. The names of his informants are not given, and it would seem by the affidavit, that his information was principally derived from residents of the province of On-

tario beyond the reach of our judicial authorities and of any power that our government could create.

Much animadversion has been had upon the statements made by said Terry, and as some public journals have pronounced him unworthy of belief, the committee feel it due to him, and to those who procured his testimony, to state that certificates have been furnished on this subject which satisfy them that the imputations cast upon the character of that gentleman were unjust. Your committee have now given a concise reference to that part of the testimony presented which they consider of a character sufficiently definite to bear upon the allegations contained in the petitions. It is also shown to your committee, by the affidavit of the wife of Morgan, that she knows nothing of his fate other than what is known generally, and that she has not seen him nor heard from him since the said 11th of September.

The committee also present to the house many other affidavits in relation to this subject, but they are of a description so vague, often resting upon slight circumstances, and in some cases without giving even the names of those suspected; that, however unpleasant may be the impressions made by them upon the minds of your committee, individually, they are not of a character which in their opinion would justify a statement of their contents in a report to this house.

After a full examination of this subject, your committee have found themselves surrounded by embarrassment upon every side.

They have endeavoured to devise a tribunal for the investigation of this transaction which could have a jurisdiction co-extensive with the section of country through which this conspiracy is charged to have extended, which would possess power to force the attendance of witnesses from every part of that country, with right to imprison those who should refuse to answer questions legally proposed, which would secure the arrest and detention for trial of those against whom proof could be made, and yet which should not in-

fringe upon those chartered privileges that secure to every citizen the right of trial by jury, according to the course of the common law, privileges to which a free people should cling as to the last rock of their political safety.

Upon the deepest reflection, your committee are of opinion, that such a tribunal, while it would be doubtful in principle, and dangerous in precedent, could not materially add to the powers vested in our existing courts.

To arrest the progress of such glaring crime, to surrender to the injured and insulted laws of our country, their so wanton violators; to protect our people in the enjoyment "of life, liberty, and the pursuit of happiness," is the duty of every citizen, and particularly of those to whom are delegated the power of acting for the general weal. Yet in doing so, we should not forget, that while we acknowledge no privileged orders in our community, our free institutions are secured equally to all. Let those who trample upon their country's laws, answer at the bar of that country for their offence; but the moral sense of the community should not be weakened by confounding the innocent with the guilty.

Aware that this transaction has called forth the deep and merited indignation of a people jealous in the protection of those liberties so dearly bought, and that are so firmly guarded by the constitution and laws of our country, as sacred in the humble citizen as in those clothed with the highest powers that freemen can bestow, your committee have anxiously endeavoured to recommend such means as in their view would most conduce to the arrest and conviction of those who have been actors in a scene which we hope is and will remain unparalleled in the history of our country.

This report was accompanied by resolutions recommending a proclamation from the governor, offering a reward of \$1000 for the discovery of Morgan if alive, and the like sum for his murderers if dead, to be paid upon conviction; and a committee of inquiry, consisting of two senators and three members of the house, to visit the western

counties, and to report the result of their inquiry to the next legislature.

Governor Clinton, however, offered a reward of \$1000 for the discovery of Morgan if alive, and if murdered \$2000 for the discovery of the offenders, and a free pardon to all accomplices, who should make a full discovery.

No discovery was made, and the excitement on account of this mysterious abduction, in which the actors seemed to be only the agents of an extensive combination, continued to increase until it entered into the political contests of the day, and masonic and anti-masonic parties became as familiar in the counties which had been the scene of this outrage, as the Papal and Protestant parties ever were in Great Britain and Ireland.

*Conspiracies.*—During this month, and the residue of the year, the public mind in the city of New-York was much excited by the legal investigations growing out of the failure of several of the monied corporations in that city. Several indictments for conspiracies were found, some of which were tried, and in two instances verdicts were rendered, on which the persons convicted were sentenced to confinement in the penitentiary. The indictments themselves, however, were subsequently determined to be illegal by the court of the last resort, and the prisoners released before the expiration of the time mentioned in the sentence. As the principle involved in this decision, is of great importance to the administration of criminal justice in this country, and as the opinion of the court stating the grounds of its decision has not yet been published, the account of the origin, progress, and termination of these interesting judicial proceedings is postponed to a subsequent volume.

*4th.*—The convention of the delegates of the party opposed to the election of Mr. Clinton, assembled at Herkimer, and nominated William B. Rochester, Esq. for Governor, and Nathaniel Pitcher for Lieutenant Governor of the state. On the first ballot Mr. Rochester had 103 votes—104 delegates present.

**COMMERCE OF LAKE ERIE—AMERICAN SIDE.**—Steam brig Superior, built at Buffalo, 310 tons; steamboat Henry Clay, built at Black Rock, about 300 tons; steamboat Niagara, built at Black Rock, about 200 tons; steamboat Pioneer, built at Black Rock, about 150 tons; steamboat Enterprise, built at Cleveland Ohio, about 200 tons; steamboat William Penn, built at Erie, Penn. about 200 tons; steamboat Chippewa, built at Buffalo, about 100 tons. Besides these seven steamboats, nearly 100 sail of brigs and schooners navigate Lake Erie.

The village of Buffalo contained in 1820, 1200 inhabitants; in 1825, 2600 inhabitants; and the population is now estimated at between 4 and 5000. The number of buildings erected this year, (including those now building) is about 200.

**October 25th.**—**ROCHESTER.**—The first number of a daily newspaper published here, made its appearance this day. Fifteen years since the site of this town was a wilderness.

**November.**—The election in this state commenced on the first Monday of the month, and continued three days. The following was the vote for Governor and Lieutenant Governor:

Clinton,	99,781
Rochester,	96,078
Huntington,	95,390
Pitcher,	99,471

The number of votes at this election was 5314 more than at the last gubernatorial election in 1824.

**December.**—On the 31st of December, 1826, the public debt of the city of New-York was \$858,584 91  
 Receipts during the year, 879,227 79  
 Expenditures, 138,219 77  
 Balance on hand, 39,999 02

A lot was sold this month in the business part of that city at \$50 per square foot.

The deaths during the year 1826, in the city of New-York, were,

Men,	1473
Women,	1001
Boys,	1534
Girls,	1163
Total,	4971

**January, 1827.**—The legislature met on the 2d inst. and Lieut. Gov. Tallmadge took his seat as President of the Senate.

Gen. Roet was elected Speaker of the House, having received 71 votes; Francis Grainger 38, and scattering 6.

**CANALS.**—By the annual report of the Canal Commissioners it appeared that the receipt from the canals this year amounted for tolls and

penalties to	\$767,190 82
The auction duties were	200,737 81
Salt duties,	77,405 33
Other sources appropriated to the discharge of the canal debt,	7,635 19

This report showed an increase of tolls, over and above the estimate of the last report, of \$15,140, and exceeding the tolls of last year by the sum of \$198,969.

It also stated that great progress had been made towards perfecting the Oswego Canal, which it was expected would be open for navigation in the course of the ensuing year. The Cayuga and Seneca Canal was also partially opened, and its completion was anticipated before the end of 1828.

Both these canals are constructed from the surplus receipts of the canal fund and promise speedily to augment its productiveness.

The total amount of the debt incurred by the construction of the various canals, yet remaining undischarged, was \$7,911,779.

The number of boats and rafts which passed on the Erie and Champlain Canals at West Troy, with the number of tons of produce and other articles inward, and merchandise, furniture, &c. outward, for the year 1826:—

amounted to	18,980
Whole number of tons inward,	212,368
Do. do. do. outward,	32,201

Consisting of the following articles:

<i>Gals.</i>	
Domestic spirits,	1,608,030
<i>Fret.</i>	
Boards, plank, &c.	41,608,007
Timber,	404,992
Shingles,	9,000,000
Staves,	92,111,112
<i>Bbls.</i>	
Oil,	1,08

	<i>Bbls.</i>	ness of 30 sloops of 100 tons each, in addition. The line of steam tow-boats made 127 passages to and from the city of New-York, and the value of the property transported is supposed to have been \$1,000,000.
Lime, . . . . .	17,165	
Beer, . . . . .	176	
Cider, . . . . .	1,468	
Flour, . . . . .	385,335	
Provisions, . . . . .	44,057	
Salt, . . . . .	31,175	
	<i>Bush.</i>	<i>Schools.</i> —By the annual report of the Superintendent of Common Schools, the following results were given for the year 1826:
Ashes, . . . . .	38,109	6114 school districts, being an increase of 341 districts since the last return (vide last vol. 230.) Returns were received from 7544 of these districts, showing that in those districts there were 411,256 children, between the ages of 5 and 15, and that 431,601 children received instruction in those schools during the year.
Wheat, . . . . .	1,091,596	The sum of \$185,965 was paid from the school fund, of which \$80,000 was paid from the state treasury, 94,244 raised by a tax from the respective towns, and \$11,721 derived from local funds possessed by certain counties. Capital of the general school fund, \$1,353,477 revenue from this fund in 1825, \$37,267
Coarse grain, . . . . .	401,339	<i>Treasury.</i> —The balance in the state treasury, Nov. 30th, 1825, was \$240,430
Flaxseed, . . . . .	3,689	The receipt during the year ending Nov. 30, 1826, . . . . . 2,023,355
Peas and beans, . . . . .	17,916	
	<i>Tons. Cwt.</i>	\$2,271,785
Clover and grass seed, . . . . .	761 12	Payments during the same time, . . . . . 1,905,772
Wool, . . . . .	120 10	
Gypsum, . . . . .	4,466 00	Leaving a balance, Nov. 30th, 1826, of . . . . . \$366,012
Brick, . . . . .	1,759 00	of which \$101,766 belonged to specific funds, making a balance of \$264,246 applicable to the ordinary expenses of the government.
Stone, . . . . .	5,189 00	The estimated revenue of the year was . . . . . \$123,750
Cheese, . . . . .	811 04	The estimated expenses of the year was . . . . . 250,500
Butter and lard, . . . . .	1,126 01	Deficit of the ordinary revenue to meet the ordinary expenses, as estimated, . . . . . \$96,750
Hops, . . . . .	159 11	The amount of salt manufactured at Salina during the year 1826, was 816,053 bushels.
Fur and peltry, . . . . .	143 04	The total expenses of the State
Furniture, . . . . .	271 63	
Mercandise, . . . . .	579 03	
Unenumerated, . . . . .	3,511 03	
	<i>Bags.</i>	
Glass, . . . . .	9,115	
	<i>Cords.</i>	
Wood, . . . . .	20,193	
	<i>Tons. Cwt.</i>	
OUTWARD.		
Merchandise, . . . . .	20,069 07	
Furniture, . . . . .	985 00	
Unenumerated, . . . . .	514 00	
Gypsum, . . . . .	423 08	
Sand, clay and brick, . . . . .	410 00	
Stone, . . . . .	205 00	
	<i>Feet.</i>	
Lumber, . . . . .	91,559	
Timber, . . . . .	3,800	
	<i>Bush.</i>	
Grain, . . . . .	2,344	
	<i>Bbls.</i>	
Lime, . . . . .	156	
Salt, . . . . .	9,234	

The navigation of the canals commenced this year about the 20th of April, and ended the 14th of December.

Thor, N. Y.—The trade of this thrifty and beautiful city, during the last season, gave full employment to eighty sloops and schooners, measuring, on an average, more than 75 tons each, besides tow-boats and other transport boats, performing the busi-

Prison in the city of New-York. for the year ending October 31st. 1826. were . . . . . \$33,222

The net proceeds of the factories, . . . . . 24,851

Leaving to be paid from the state treasury, . . . . . \$3,371

The number of prisoners per last annual report. was 496

Number received since, 196

Discharged by pardon. 112

Transferred to Sing Sing. 110

Discharged by expiration of sentence, . . . . . 53

Died, . . . . . 36

Remaining, Dec. 31, 1826, 381

*February.*—Mr. Van Buren was elected Senator of the United States without opposition. In the House of Representatives the vote stood, Van Buren 82, scattering 31.

The following communication was addressed by him to the Legislature, upon receiving an account of his re-election :

*Washington, Feb. 13, 1827.*

SIR—I have received the resolution of the Senate, appointing me a senator to represent the State in the Senate of the Congress of the United States, after the third of March next, and have to ask permission to communicate to the Senate, through you, my acceptance of the office.

Relying on the indulgence of the Senate, and in justice to my own feelings, I avail myself of the opportunity thus presented, to say, that having considered my first appointment as an evidence of confidence and liberality to which my public services could have given me no pretension, I cannot but regard my re-appointment under existing circumstances, and with such gratifying unanimity, as an act of favour demanding the expression of my utmost gratitude. I do assure the Senate that I am deeply sensible of the honour which has been conferred upon me; and to justify their confidence, I shall be my constant and zealous endeavour to protect the remaining rights reserved to the States by the Federal Constitu-

tion; to restore those of which they have been divested by construction, and to promote the interests and honour of our common country.

With great respect,

your obedient servant,

M VAN BUREN.

*The Hon. Nathaniel Pitcher,*

President of the Senate  
of the State of New York.

A bill was introduced into the Senate, authorizing provisions to be contributed on the part of the State, to the suffering Greeks. It there passed; but upon its coming before the House, it was rejected, 67 to 40.

*April.*—A law which passed both Houses of the Legislature, prohibiting the sale of tickets in the lotteries not authorized by the state, and compelling vendors to take out licenses, was referred to the Legislature by Governor Clinton, with his objections to its becoming a law. These were founded on the circumstances under which the state lotteries were placed, which showed that the managers had made a contract with the state, and that by preventing them or their agents from selling without a license, the state would violate that contract, and interfere with the vested rights of the managers. These objections prevailed, and the bill did not become a law.

*Sheep.*—A destructive malady appeared among the sheep in the town of Waterville, N. Y.; hundreds died off very strangely; considerable pains were taken to ascertain the cause, which terminated very satisfactorily. A kind of grub worm was discovered in the head, a little above the eye. The largest was about three fourths of an inch long, and as large as a pipe stem, and many others were found in the same sheep's head, some but little smaller, and others quite small. They were alive after the sheep was dead. They were put in spirits of turpentine, but this did not kill them.

*Revised Statutes.*—The Legislature of this state adjourned on the 17th inst. to meet again on the second Tuesday of September, at a special session, to be devoted to an examination of the revised

code of laws now in progress, of which some detailed account is necessary.

To a full understanding of this plan, a retrospective view of the history of the statute law in this state is essential.

Soon after the peace, which established the independence of the colonies, the state of New-York appointed Samuel Jones and Richard Varick, to collect the colonial and British statutes, reduce them into proper form, and prepare them for re-enactment. Those gentlemen performed the task with great assiduity and care, and with a caution suited to the times and the occasion. Upon their report, all British statutes were repealed; but many of them were so interwoven with the system of law, that it became necessary to retain their substance. This was accomplished by selecting such as were adapted to our institutions, copying them almost literally, and re-enacting them as original statutes. Sometimes different British statutes, on the same subject, were drawn together, with very slight alterations of their language, and were enacted as one statute, without an effort to expunge what was obsolete, or to reconcile conflicting provisions. This, however, is not a cause of censure. Many and great changes were necessarily made by the revolution and the organization of an independent government. Time was not afforded for a careful examination of all the laws relating to property, nor was the occasion propitious to a reformation of those laws. In consequence, many ancient statutes were inserted in their original English language, or in literal translations from the French or Latin in which they were enacted. No effort appears to have been made towards any scientific arrangement of the statutes reported. The revision of Messrs. Jones and Varick was completed and published in 1789. From that time to 1825, numerous acts had been passed by the state Legislature, and the general constitution had, in the mean while, been adopted. A new revision became necessary, and James Kent and Jacob Radcliff were selected for the task. They followed the plan of the prior revision: retained the ancient

English acts, generally, as they found them; collected the general laws that had been passed in the mean time; and modified the existing statutes according to the alterations that had been made, from time to time, in the Legislature. In 1813 a new revision was completed by John Woodworth and William P. Van Ness, who had been appointed for that purpose. This did not profess to be more than a collection of general laws, with such modifications as they had received from legislative acts.

From this period until 1825, the laws multiplied at each session. New interests and relations arose. The state doubled its population. Nearly one half of its territory was reclaimed from forests, and changed into cultivated fields and populous villages. A canal uniting the great western seas with the Atlantic was constructed; new sources of industry were opened, and enterprise discovered new fields for its operations. Internal trade extended beyond calculation and the character of the greater part of the whole population was varied. Laws became necessary as these new interests and relations arose. The adoption of a new state constitution, changed radically nearly all the existing laws relating to the administration of the government. While the multiplicity of the statutes rendered a revision more necessary than ever, it was obvious that it could no longer be conducted on the old plan. Most of the old statutes had become absolutely inapplicable to the new state of things; others required the most extensive alterations; new cases had arisen for which adequate provision had not been made: the temporary expedients were not calculated for permanent provisions; heterogeneous and contradictory statutes were to be reconciled, and from a mass of more than 5000 pages were to be extracted a set of laws adapted to the wants, and correspondent to the intelligence, of the age.—The Legislature of 1825 appointed John Duér, Benjamin F. Butler and Henry Wheaton, to collect, revise, amend, and collate the statutes, with the most ample powers to propose any modifica-



tions, alterations, or additions, that should appear to them proper. This law was passed upon a representation of the two first named gentlemen, (who had been appointed in the previous month of November to revise the statutes,) accompanied by a plan of the proposed work, and a specimen of its execution.

The first public account of their progress is a report made on the 15th of March, 1826, in pursuance of a resolution of the house of Assembly. In this report they state the proposed arrangement and classification of the statutes into five parts, as follows:

1. Those which relate to the territories, the political divisions, the civil polity, and the internal administration of the state

2. Those which relate to the acquisition, the enjoyment, and the transmission of property real and personal: to the domestic relations; and generally to all matters connected with private rights.

3. Those which relate to the judiciary establishments, and the mode of procedure in civil cases.

4. Those which relate to crimes and punishments, to the mode of procedure in criminal cases, and to prison discipline.

5. Public cases of a local and miscellaneous character; including the laws concerning the cities, and such other acts of incorporation as shall be deemed necessary.

This comprehensive arrangement obviously required the entire breaking up of the existing statutes: the distribution of their dissevered members to their proper places, and such changes in their phraseology as would adapt them to their respective situations and functions. In the winter of 1827, the first eight chapters of the first part, with the tenth, the nineteenth, and a part of the ninth, were printed, and laid before the Legislature. It was soon found that the examination of the proposed revision by the members of the Legislature, during the session, and in the midst of the pressure of ordinary business, was wholly impracticable. One of the chapters prepared

only was acted upon. That was passed by the Senate. A special meeting of the Legislature was directed to be held in the month of September, for the sole and exclusive purpose of considering the reports of the revisors. In the course of this winter, Mr. Wheaton was appointed by the Government of the United States, Charge des Affaires at Copenhagen, and resigned his appointment. On the recommendation of the remaining commissioners, Gov. Clinton appointed John C. Spencer, a member of the Senate, to supply the place of Mr. Wheaton. Having thus, in the order of events, introduced the name of Mr. Clinton, as connected with this revision, it is but an act of justice to state that in his official communications to the Legislature, for years previously to the act of 1825, he had strenuously urged various important reforms in the laws of the state: and that these recommendations prepared the public mind, and in a great measure led to the great work of which we are now giving an account. It constantly received his cordial approbation and vigorous co-operation, so far as his station afforded the means.

Mr. Spencer entered on the duties of his appointment the last of April, 1827; the Legislature assembled on the 11th of September in that year, and continued in session until the 6th of December, devoting their time and unabated attention to the consideration of the reports of the revisors. The remaining chapters of the first part, with a republication of the fifth chapter, of that part much enlarged and improved, together with all the chapters of the second part, except the first, were laid before the Legislature, and enacted as laws. The titles of these chapters are here given, as the only, although imperfect means of arriving at a knowledge of the plan of the work, and of the labour of its execution.

The first part consists of twenty chapters. The first is entitled, of the boundaries of the state, and its territorial jurisdiction; the second, of the civil divisions of the state, and contains the boundaries of each county, city, and town in the state. The third, of

the census or enumeration of the inhabitants of the state. The fourth, of the rights of the citizens and inhabitants of this state. The fifth, of the public officers of this state, other than militia and town officers: their election or appointment, their qualifications and the terms of their offices. The sixth, of elections, other than for militia and town officers. The seventh, of the Legislature. The eighth, the duties of the executive officers of the state, &c. The ninth, of the funds, revenue, expenditures and property of the state, and the administration thereof. The titles of this chapter are given from the belief that they will be interesting to all classes of readers: *title 1.* of the general fund, and the expenditures chargeable thereon; *title 2.* of the canal fund, and the administration thereof; *title 3.* of the literature fund; *title 4.* of the common school fund; *title 5.* of the public lands and the superintendence and disposition thereof; *title 6.* of mortgages to the people of this state, and the freemen thereof; *title 7.* of the public buildings and erections; *title 8.* of the state library; *title 9.* of the canals, consisting of nine articles; *title 10.* of the salt springs; *title 11.* of the interest of the state in mines; *title 12.* of escheats; *title 13.* of the recovery of forfeited estates. The tenth chapter is of the militia and the public defence: the eleventh, of the powers, duties, and privileges of towns; the twelfth, of the powers, duties, and privileges of counties, and of certain county officers; the thirteenth, of the assessment and collection of taxes; the fourteenth, of the public health; the fifteenth of public instruction; the sixteenth, of highways, bridges and fences; the seventeenth, of the regulation of trade in certain cases, including the auction and inspection laws; the eighteenth, of incorporations; the nineteenth, of the computation of time, of weights and measures, and the money of account; and the twentieth, of the internal police of the state, consisting of twenty-one titles, embracing the most interesting provisions respecting internal economy. The second part consists of eight

chapters. The first, relating to the tenure of real estates, the nature of estates, and the persons capable of conveying, was not prepared during the last year. The second chapter is, of title to real property by descent; the third, of the proof and recording of conveyances of real estate, and the cancelling of mortgages; the fourth, of title to personal property in certain cases, consisting of three titles: *title 1.* of limited partnerships; *title 2.* of promissory notes and bills of exchange; *title 3.* of the interest of money. The fifth chapter, of title to property real and personal, transmitted or acquired by special provisions of law, treats of proceedings against absent, absconding, concealed, imprisoned, and insolvent debtors, and of proceedings by insolvent debtors for a discharge from their debts, or for an exoneration of their persons from arrest; and of the custody and disposition of the estates of idiots, lunatics, and drunkards. The sixth chapter is, of wills and testaments, of the distribution of the estates of intestates, and of the rights, powers, and duties of executors and administrators. This chapter is in itself a complete code of the law on the subject. The seventh chapter is, of fraudulent conveyances and contracts relative to real and personal property; the eighth, of the domestic relations, and has four titles: *title 1.* of husband and wife, including the solemnization of marriage, and the proof thereof, divorces and separations; *title 2.* of parents and children; *title 3.* of guardians and wards; *title 4.* of masters, apprentices, and servants.

The remaining third and fourth parts are expected to be completed during the year 1828.

A severe critic of the titles of the different chapters of the first and second parts, above given, might infer that they comprised a codification of the whole law written, as well as unwritten, on the subject of which they treat. Nothing could be more erroneous.—They contain a certification of the *statutes* on those subjects, and of the constructions which have from time to time been given to them by the decisions of

the courts, together with such emendations as those decisions and practical experience have suggested. The revisers, throughout, have relied upon the vigorous and elastic principles of common law, to give effect to their provisions. It is chiefly when the common law required adaptation to the existing state of society, and to the new interests which have arisen, that any alteration in its principles has been proposed.

The work is now in successful progress. When completed, it will furnish the first instance in which the statutes of any country enjoying the common laws of England, have been arranged and methodized according to any scientific system. It is also the first instance, in which an effort has been made, to convert the technical, complicated, involved, and antiquated phraseology of the statutes, into the neat, and perspicuous language, which is adopted in every other department of modern science.

**Hudson.**—It appears, that since 1797, the sum of \$148,707 91 has been expended in improving the navigation of the Hudson, chiefly between Troy and Albany, only \$5,566 16 having been paid for works performed below the latter; of the whole, no more than \$29,250 has been paid out of the state treasury—the balance was raised by private subscriptions, local lotteries, &c.

There is a village in Essex county, situate on the river Au Sable, which empties into Lake Champlain, called Kersville, regularly laid out, with large cotton factories, iron works and other mills, and a population exceeding 650 souls! Five years ago there was no settlement at this then wild spot. The iron mines are peculiarly valuable.

**May.**—By the annual report of the Union Sunday School Society of this city, it appears that there are 64 schools, in which there are

Male scholars,	4715
Female do,	2081
Male teachers,	759
Female do	339
Libraries 24, containing 6600 vo-	

**July.**—The state convention of wood-growers and manufacturers, representing nearly all the counties of the state, assembled at Albany this month, and appointed Jesse Buel, Esq. President, and Edward H. Pindleton, Esq. and David E. Evans, Esq. Secretaries.

The following gentlemen, together with the chairman and secretaries, were appointed delegates to attend the national convention, to be held at Harrisburg on the 30th of July, viz:—

Eleazer Lord, Peter Sharpe, and Ed-  
fingham Lawrence, of the first [senatorial] district.

James Tallmadge, Robert Denniston, and Abraham H. Schenck, of the second district.

Jacob R. Van Rensselaer, Samuel M. Hopkins, and George Tibbits, of the third district.

Samuel Young, David Russel, and Richard Keese, of the fourth district.

Ebenezer B. Sherman, John B. Yates, and John Brown, of the fifth district.

Alvan Stewart, Peter S. Smith, and George McClure, of the sixth district.

Victory Birdseye, Enos T. Throop, and Francis Graugers, of the seventh district.

Elisha B. Strong, Philip Church, and Cyrenius Chapin, of the eighth district.

And resolutions were passed in favour of increasing the duties on imported woollens, and requesting the attention of the general convention to wards pig and bar iron.

## 1826.] NEW-JERSEY.

In our history of New-York a full detail will be found of the difference which have for many years existed between that state and New-Jersey relative to the boundary of the two states. It will, therefore, be unnecessary to recapitulate the proceedings of the two governments upon this interesting topic.

**October.**—The elections for members of congress terminated in the re-election of Messrs. Malcomb, Can-  
dict, Swah, and Tucker. Isaac Pier-  
son and Hedge Thompson, who were  
friendly to the administration, took the  
places of Messrs. Cassedy and Gar-

on. The election was very warmly contested.

Isaac H. Williamson was re-elected governor of New-Jersey, by the Legislature, without opposition.

November. Elijah Bateman was elected a senator of the United States for six years from the 4th of March, 1827, in the place of Mr. M'Vane, deceased. He was opposed by T. Frelinghuysen, who received twenty-eight votes; the same number given to Mr. Bateman, besides his own.

Much excitement was created by the fact that Mr. Bateman, a member of the legislature, voted for himself.

A correspondence was submitted to the legislature, by Governor Williamson, which had taken place between him and the executive of New-York, relative to the seizure of the New-York sheriff for a violation of the territory of New-Jersey. The correspondence was of a conciliatory nature.

A tribute of respect was tendered to Judge William Russell, on his retirement from the bench of the supreme court of the state. A large meeting of the members of the bar assembled at Trenton, and signed the following letter, in reply to Judge R. on his quitting the bench:

"SIR: the members of the New-Jersey bar having received from you, this morning, the intelligence that you are about to retire from the bench of the supreme court, cannot, in justice to their feelings, withhold the expression of their regret that the relation, which for twenty-two years has subsisted, is about to be dissolved. We record, honoured sir, with grateful recollection, the urbanity, impartiality, and kindness, which, during all that time, we have experienced from you in your judicial and private intercourse with us. We cordially reciprocate your good wishes, and trust that the same benignant Providence who has thus far blessed you, will continue his watchful guidance and care, and crown the evening of your useful

life with tranquillity and peace."

The sloop Deborah, of the port of Bridgetown, which was despatched by the New-Jersey Delaware Oyster Company, for the purpose of receiving the sum required by them for all oysters gathered by foreigners for a foreign market, agreeably to their notice issued on the 28th of October, while at anchor in the second reach of Back creek, on the 10th at noon, was boarded by a number of armed men, from the Pennsylvania oyster vessels, which lay in that harbour. She was robbed of her rigging, wool, water-casks, &c. and then set on fire and totally consumed. From the testimony given, it was supposed to have been the intention of the party to have murdered one of the crew of the Deborah. In an account of this affair we find the following statement of the lawless conduct of persons engaged in the oyster fishery. "There are, generally, at least one hundred oyster vessels on the New-Jersey oyster beach in this county. They are now organized, have their signals, music, &c. and array themselves manfully in line of battle, in two divisions, threaten destruction to the villages adjacent to the shore, plunder when it suits them, and bid defiance to civil authority. No civil process from this state or the United States, can reach them without the support of an armed vessel."

1827.]—April.—The grand jury of Salem county presented as a nuisance the practice of *treating*, or giving spirituous liquors to voters, at elections, for the purpose of obtaining their votes.

May.—A native of Scotland, aged 104 years, came to Paterson, from New-York, on foot, a distance of sixteen miles, to obtain employment.

July.—The Franklin bank of New-Jersey stopped payment. Great discontent was expressed by the numerous individuals who applied at the bank to obtain money for its paper. The failure was considered a very bad one, and the business to have been carelessly and improperly managed,

as neither specie nor other funds, acceptable to the holders of its notes, could be obtained.

#### PENNSYLVANIA.

**INTERNAL IMPROVEMENT.**—In the last volume of the Register, some allusion was made to the spirit of improvement manifested by the legislature of this state, and some account was given of the progress which had been made in the magnificent plan of internal navigation, undertaken by the local authorities. More than a passing notice, however, is due to a system so splendid in its projection, and which promises such momentous results; and we now proceed to give an account of the commencement and progress of internal improvement in a state, which has by some been denominated the key-stone of the union.

The internal improvement of the state of Pennsylvania was commenced at an early period of its existence. As early as 1780, commissioners were appointed to survey and examine certain rivers; but the events which soon after occurred in Europe, interrupted the designs already conceived, and gave a different direction to the capital, by the employment of which they might have been consummated. Except, therefore, in the construction of turnpike roads, the measures for the internal improvement of the state were laid aside; but there remained enough traces of the spirit, to show that it was not extinct. It is in these opportunities of communication that Pennsylvania is pre-eminent; in these, the solidly beneficial, in opposition to the more glaring, though certainly not less serviceable means of other states. It is our intention, before entering upon the subject of canals, to show, briefly, what has been done in this respect,

By a report, which may serve as a model, for the admirable concoction of its matter, and which was ~~made~~ <sup>presented</sup> to the senate of that state in 1802, it appears that, from the year 1791 to the year 1821, there had been incorporated about one hundred and fifty road companies, either generally or upon

particular conditions. To these the sum of \$6,401,474 had been subscribed, of which \$4,158,347 were individual, and the rest state subscription. The roads were designed to cover an extent of 2521 miles, of which about 1807 had been completed—1250 of the number running through solid stone.

The bridges of Pennsylvania had cost, to the same year, \$2,051,795, of which \$1,629,200 were from individuals, and the balance from the state. They were, in number, excluding those erected by authority given to individuals, about fifty. And the amount of money expended upon canal and lock navigation, for which companies, to the number of ten, had been incorporated, was, by individual subscription, \$1,416,600, by state, \$130,000, so that the whole appropriation to the cause of internal improvement in Pennsylvania, was, within twenty years, \$10,366,779. No report of this nature having been since made, we have no means of correctly ascertaining the number of companies incorporated subsequently, nor the pecuniary aid bestowed upon them by state or individual subscription. We have reason to think, however, that the amount may be computed at about two millions.

We now proceed to give a concise history of the realization of the schemes for water communication, as far as they were favoured and matured in the legislature of Pennsylvania.

So early as the year 1789, attention was drawn to the condition of the navigation of many of our rivers, and individuals were, as we have said above, commissioned to survey and make report of them to the governor and council. They examined the Delaware, Schuylkill, Susquehanna, Juniata, and some others, and made their report in 1790. Our limits do not permit us to make a summary of the principal matters in these papers, nor would it be of service, except as a matter of curiosity. They estimated the expenses, and recommended certain plans, which they thought necessary or proper, but no

benefit ever resulted from them. Canal-making was not yet sufficiently familiar. And in the then thinly settled state of the country, would have been attended by less advantages than the turnpike roads.

In the year 1798 was incorporated a company for opening a canal from Philadelphia to Morristown, a distance of about sixteen miles; and in 1792, another for the construction of a water communication, partly by canals, and partly by creeks, from Reading to Middletown, on the Susquehanna, a distance of about seventy-six miles. The capital of each was \$400,000. The schemes were both examined, and pronounced practicable, by Mr. Westen, an accomplished surveyor. The cost of the first he estimated at \$400,000, of the second at \$1,221,330. The secretary of the navy, however, in his report, differed from Mr. Westen, and made the cost of the first amount to \$630,000. In 1794, the sums expended on the first amounted to \$220,000; and at that time not more than one third of it was completed. As its funds were expended, and no more could be procured, no further progress was made.

In relation to the other, the result was still more unfortunate. In 1796 it was so near completion, that in two weeks it might have been in use. There had been authorized in its favour two lotteries, from the first of which was realized the sum of \$50,000, but owing to ill conduct on the part of the persons intrusted with the management of the second, its prizes were not paid; and by these means the company lost the funds necessary for its purposes. The principal difficulties had been already overcome; the heavy digging of the summit level, the towing paths and locks were all very nearly finished. The company was by this disaster thrown back; a considerable number of the subscribers declined to pay their instalments; suits were instituted by claimants; the sites were, in many instances, sold by the sheriff; and thus, all hopes of the immediate improve-

ment of Pennsylvania were frustrated.

From this time, until the year 1811, nothing was done in respect to these two companies. Repeated applications for aid were made to the Legislature, but, from various causes, they were not successful. In 1811, both were incorporated into one, under the name of the Union Canal Company. These facts are principally taken from a very able protest, drawn up and signed by Mr. W. I. Duane, then a member, against the refusal of the house of representatives, to make the state security for the company's payment of the sum of \$350,000, to be raised by way of lottery. This application was made in the session of 1812-13. In the house, the committee upon the subject reporting unfavourably, the report was immediately confirmed; and in the senate the favourable report of the committee was at once rejected.

The incorporation of these two companies, however, gave them a power which, aided as it has since been by the public favour, and the lotteries authorized in their behalf, has been able to overcome all difficulties which at first impeded them.

In 1811, there was introduced into the legislature a resolution requesting the aid of the general government in aid of internal improvement. It does not appear, however, to have been the cause of any greater attention to this subject. The committee, upon a subject pressed strongly in the message of the governor, to wit, the co-operation of this state with New-York, in the work of opening a water communication between the great lakes and the Hudson, reported unfavourably, as was to be expected, both from the nature of the scheme, which must have been of difficult accomplishment, and from the situation of the state and the nation generally, in respect to finances.

From this time until the year 1817, there was nothing done worthy of particular recital. Companies for the construction of canals for short distances and to avoid specific obstacles, were occasionally incorporated, but they were seldom attended with any

success. We do not know that any thing was ever effected, except by one, the Conewago.

In the session of 1816-17, the advocates of canals seem to have been inspired with greater zeal and animation. A resolution was introduced for the appointment of commissioners to view, in conjunction with others, from different states, the condition of the navigation of certain rivers. The attention of the people was attracted; many distinguished men came forward in support of the plan. Without meaning to undervalue or discredit them, we may say, that its opponents were, as a body, inferior to its friends, in influence, and ability. And though many years were yet to elapse, before the consummation of their wishes, yet the constant allusions which they made to it, the spirit of preparation for certain and contingent difficulties, and the decided effects of the question now produced upon popularity, were so many indications of approaching success, and incentives to exertion.

In 1817-18, a resolution directing the appropriation of auction duties to canals between Lake Erie and the Alleghany, and the Susquehanna and the Delaware, was passed. It was proposed, by the introduction of a bill, that additional duties on auction sales should be appropriated in aid of the Schuylkill navigation company; but the bill was postponed in the senate.

Commissioners had been appointed in conjunction with others from Maryland, to view, and make report on, the navigation of the Susquehanna. Those acting on the part of Pennsylvania, differed from the others in respect to the propriety of an ascending navigation, to be effected by canal, considering that the mode by the turnpike roads was as beneficial in cheapness and celerity. The cost of ascending the descent, they estimated at \$20,000.

In this session was made a report by the individuals charged with the duty of examining the route of a canal between the Tioga and Seneca lake. It

is not necessary to give an abstract of it. That it was not unfavourably considered, may be inferred from the passage of a bill granting additional compensation to the commissioners. And lastly, that which was then, and at all times, the principal object of the friends of canal improvement, a proposition was brought forward for the appointment of a board of canal commissioners. It was at first withdrawn for the present, by the desire of the house. And upon a subsequent debate, it was lost. This resolution was proposed by Mr. Lehman, a gentleman who has made this the chief object of his political life, and whose sincerity and exertions in the cause have gained for him a reputation which he well deserves.

It was just after this session that Mr. Breck, then a senator of this state, and since a representative in congress, published a pamphlet on the subject of the internal improvement of Pennsylvania. After refuting the idle assertions of indolence, inability, and want of public spirit, he remarks upon each branch of public expenditure separately. By his observations upon rivers and canals, the condition of water communication does not appear so degraded, as was represented. The Union Canal Company was, at the time of his publication, in the receipt of an annual income of \$30,000 from its lottery. The Schuylkill Navigation Company having taken upon itself to perfect the navigation of that river, the former was enabled to direct its whole attention to the junction of the Tulpehocken and Swatara. The state appropriated \$50,000 in aid of the Navigation Company. Though the scheme of obtaining increased duties on auctions had failed in the legislature, yet the company raised the requisite sum of \$400,000 from private subscription, made on the strength of a guaranty given by the state. The Delaware and Chesapeake Canal had been favoured by a grant of money under certain conditions. One canal, (already spoken of,) round Conewago.

tals, in the Susquehanna, had been completed; and another on the opposite side of the river, was then in progression. The Brandywine and Lehigh rivers were both to be improved. The works at that time begun on the Susquehanna, have since been finished. And the "invaluable link" between the waters of this river and of the Schuylkill is almost completed.

In the session of 1818-19, a bill for the raising of revenue in aid of internal improvement was postponed indefinitely in the house, upon a resolution that it violated the constitution in the senate's proposal of the principles upon which the fund was to be raised.

In this session also a resolution was offered by Mr. Breck to appoint a committee from the senate, which in conjunction with another from the house, should view and make report of, the state of the works formerly undertaken by the Schuylkill and Susquehanna Company, to which we have already adverted. The resolution was agreed to; and the two committees having performed their duty, their report was presented to the senate and house. It contains a representation of the condition at that period, of the works, which though affected by time, might be renovated; and particularly urges the propriety of again undertaking this, as a necessary link in the communication between Philadelphia and the West.

The proposition for the erection of a board of canal commissioners, was again brought forward before the house, and again unsuccessful. The friends of the measure were still deemed too hasty in seeking the accomplishment of this, their chief desire. The majority in favour of the indefinite postponement of the bill, was twenty-three in a house of eighty-nine members. It is not in our power to furnish an abstract of the contents of the bill, though we have reason to think its provisions similar to that which was finally successful.

The same failure occurred again in the session of 1819-20; but the succeeding winter, its course appears to

be more prosperous. The report of the committee for this session of 1820-21, upon internal improvement, urged the advantages of opening a canal between Middletown on the Susquehanna, and Reading on the Schuylkill. The cost, it was supposed, could not exceed \$500,000; and it was believed, that the state would secure the payment of the interest upon this sum. The bill annexed to the report, contained provisions for the measure: a power to appoint a board of canal commissioners, and the pledge of the state to provide funds. Its first reading was on the 12th of March, 1821. There were many objections founded upon the alleged crudeness of the scheme, the want of means on the part of the state, the peculiar difficulties that must be encountered, and the sufficiency of the communication already possessed. The second reading was moved for, proceeded in, and continued during the next day. Owing, however, it is said, to some sudden disgust taken by a number of the members, who were expected to support the bill, on the 14th of March a majority appeared against the bill, on the question to resume the second reading, and it was lost by three votes. A motion made a few days after, to reconsider the bill, was lost by about the same numbers.

This bill extended only to the appointment of commissioners. It did not point out any particular plan of improvement. The decrease in the number of votes against it, manifests a great change in the sentiments of the people and their representatives. Undoubtedly, however, there still existed against it, in those counties which could not expect any material benefit, a strong and implacable hostility. Any attempts to convince their delegates of the utility or propriety of the plan, must have been unsuccessful. To the presence of this bill in the house may be attributed the diminution, not in the number of applications for particular improvements, but in the degree of attention paid to them: for whether aided by state or individual



subscription, they must have been effected at greater cost, and attended by less benefit. The application of the whole strength of the commonwealth to one object of great extent and commensurate service, was the wisest policy, and, notwithstanding all efforts, that which was finally adopted.

In the next session, of 1821-22, the same object was brought forward. There appears to have been, at this time, some desire, or at least pretended desire, to favour local improvement. A bill in favour of the Chesapeake and Delaware canal passed the house, and a second reading in the senate.

The report of the committee on roads and canals for this session, referred particularly to the erection of a board of commissioners to explore the route between the Schuylkill and Susquehanna rivers, through the great valley of Chester and Lancaster counties, and the most suitable routes between the waters of the Susquehanna, the Alleghany, and the Lehigh rivers. The motion for this purpose, originally made by Mr. Lehman, was postponed until the seventh of January, and then agreed to.

Two resolutions were brought before the house by Mr. Hopkins and Mr. Henderson, the one in relation to a grand scheme of water communication throughout the union, subsequently supported by a petition from Venango county; the other appointing a board of commissioners, consisting of five members, whose duty it should be to examine the routes, and generally to accomplish the objects noticed in the resolution. Of this resolution we shall say, that it presents in the most able manner, the purposes which the commissioners were to accomplish, and that the points which it selects for information, are precisely those of which the determination was most necessary for the furtherance of the plan. It did not succeed, and perhaps there was nothing lost by its failure, for the scheme was not enlarged to acquire favour among the people. But if it be recollected, within

what short time previously, the presentation of such a resolution would have been regarded as trifling with the House, there is still left sufficient room for congratulation upon the progress of the cause of internal improvement. Another resolution, for the appointment of a board, to consist of the secretary of state, the state treasurer, and the surveyor general, was brought before the house. These officers having consented to serve in this new capacity, it was hoped, that one strong objection relating to the expense necessarily incurred in the erection of new places, would be obviated. This was introduced toward the close of the session by Mr. Lehman and Mr. Boyd. Its objects are more detailed than those contained in the other, which we have noticed above. The routes contemplated by it have reference to the country between the Schuylkill and Susquehanna, through the great valley of Chester and Lancaster counties, that between the highest navigable waters of the Juniata and the west and north-west branches of the Alleghany. The commissioners were also directed to ascertain the practicability, and the most eligible routes, of effecting a communication between these streams by means of canals and locks, and also by turnpike or rail-roads.

They were farther directed to cause levels and surveys to be taken, and to make their estimates. Provision was made for their expenses. This resolution was lost next day by a majority of twenty-one.

A resolution was offered, at the beginning of the session of 1822-23, directing the committee on roads and inland navigation, to inquire into the means, which might be of most certain success in securing the completion of a canal, to connect the Chesapeake and Delaware; and, in connexion therewith, to consider the navigation of the Susquehanna. The aid, requested by the Chesapeake and Delaware and Hudson Canal Company, was granted to them in the shape of a bonus of \$100,000, payable, on

der certain conditions, by the Philadelphia Bank, upon the repeal of their charter, the Company received the benefit of the grant.

An act was passed for the improvement of the Susquehanna, and an appropriation of \$50,000 made in its favour. Commissioners were appointed for the performance of this duty. The Susquehanna was further to be improved, near Harrisburg, by a company chartered with power to construct a canal and lock navigation. Its purpose was to supply the place with water. An act was passed, directing a survey of the route between lake Erie and French creek, for a canal, and a company was incorporated as the Chenango Canal Company; to open a communication from Pollock's bridge, in the Chenango river, to the state line.

Resolutions were of course introduced this session, in favour of the appointment of a board of canal commissioners, but none of the attempts were successful. The efforts, however, were more numerous, and more ably supported than heretofore. Communications were received from the government of Maryland, asking co-operation in several of their designs. None of them met with much attention; probably from the cause which must always interfere in similar concerns from other states; doubts of the disinterestedness of their intention, and fears of the consequences of a too close connexion.

In the next session of 1823-24, the resolution for the appointment of a board of commissioners, was brought forward, and, the bill founded upon it and reported by Mr. Lehman, as chairman of the committee, finally passed, but not without great opposition. A motion, during the second reading, to postpone indefinitely, was lost but by one vote.

A resolution and a bill, introduced by Mr. Clark, directing commissioners to be appointed to inquire whether, and at what expense, a canal could be opened from Middletown to Pittsburg, was lost.

The report of two of the commissioners appointed under Mr. Lehman's bill, was made the next session, 1824-25. It is not in our power to enter into any of its details, further than to state, that the cost was estimated by them at about \$2,797,825. Besides this, a report by the third commissioner, Mr. Tasbetown, was presented, exhibiting a difference of opinion between him and his colleagues. Mr. T. particularly differed from them in respect to the construction of a tunnel, recommended for the avoidance of the portage across the Alleghany mountains. The tunnel was to be four miles in length. As to the cost of the canal, two of the commissioners estimated the expense at about ten, and Mr. T. at about twenty thousand dollars per mile.

Whether the commissioners or Mr. T. were correct, is a matter of no great importance. The inconveniences of a tunnel of the specified distance were, of themselves, great enough to deter the state from any further prosecution of the object. The difficulties and expenses of its construction were insuperable obstacles. The difference of opinion was rather fortunate than otherwise, for, not to speak of the division necessarily caused in the house and senate, the mere circumstance that some means of "canalling" were more obvious, was sufficient to give greater strength to any subsequent plan.

As to the reception of the commissioners' report in the house a motion was made to print 1200 copies. Several amendments, by the insertion of smaller numbers, were lost, and, after an adjournment, the original motion gave way to a motion for the present postponement of the question. About a month subsequently, and after Mr. Tregeyulny's report had been made, it was ordered that 500 copies of each should be printed. Besides this, there were made other reports, upon different subjects, connected with canal improvement. One by the committee of the house on inland navigation: one by the commissioners appointed

under the act of 1823, to co-operate with others from the state of Maryland, in the examination of the west branch of the Susquehanna. In respect to the last, those on the part of Pennsylvania now agreed with the others in the propriety of an ascending navigation by locks, and contracts were sold by them to the amount of nearly \$7000.

The last report, upon the general communication between the eastern and western waters, was made by individuals, who had never before considered canal improvement as a great object of their political lives, and whose assumption of the task at this time was probably less in conformity to their own desires, than those of the public.

The duty, therefore, was not so beneficially executed as it might have been, if the habits and dispositions of the commissioners had led them more particularly to such occupations. The report was never an object of much attention. The next bill came before the house under better auspices, for if nothing had been yet gained, it was quite clear that something had been left undone.

Before entering upon the succeeding session, we have to observe upon the various plans of local improvement then before the legislature. There had been passed eight or ten bills in furtherance of particular canal and navigation companies. As the absence of those bills, when the fate of the great measure had been doubtful, was not only prudent, but necessary, their consideration anew, when the desire of improvement had been in some degree developed, may be taken as an evidence of the dispositions of the people.

A new law for the appointment of commissioners having passed during the session of 1824-25, and new commissioners having been appointed, their reports, two in number, and presented at different times, were made in the winter of 1825-26, to the legislature. They had, as was stated in the first, examined the several sum-

mits on the route by the west branch of the Susquehanna; the summits on that by the Juniata; and had made measurements and levels from those summits to common points, and a connexion of their levels with each other. But the surveyors not having yet been able to make their reports, or furnish the necessary drafts, the commissioners were not enabled to enter into any particulars.

The next report was made about a month afterwards.

In their observations upon the routes, they reject all consideration of those known as the West Branch and Clearfield; the former being of greater distance as respects Pittsburg and lake Erie, and likely to want water at the summit; the latter would be longer, and more expensive than any.

Between the other two, the northern and the Juniata, the board made no choice, considering them equal in advantages and difficulties.

As regards the northern branch, they considered, that even deducting from the estimate of 1,770,811 cubic feet of water per day, the amount of 51,000; to be lost in leakage and evaporation, there would still remain more than enough for all the purposes of navigation; that there would be required 260 locks of eight feet lift each; and that the whole time necessary for a passage would be sixteen days. The estimate of Mr. Strickland makes the cost amount to \$4,324,100. The ground presented no serious impediments.

In relation to the Juniata, one important obstacle, the passage of the Alleghany mountains, was to be first considered. The board disapproved of the plan (suggested by the former commissioners) of sinking a tunnel of about 754 feet below the summit, inasmuch as their surveyor did not find more than one half of the quantity of water necessary to feed it, though it had been represented as within reach; and inasmuch as the number of locks to be crowded together at each end of the tunnel would not be a less important difficulty. As they cannot there-

more expect to complete an unbroken water communication by this route, the board, in considering the portage across the mountains, recommend a rail road, and basin at each side. The distance of the whole would be twelve hundred and eighty one feet; requiring sixteen locks of eight feet lift each. The length of the portage would be seventy-eight miles. The time of passing the canal, eight days. To pass the locks, nearly three days. To unload, cross the mountains, and reload, two days. The whole passage, therefore, thirteen days. The estimate made by Mr. Strickland, amounts to \$3,045,000.

On the 25th of February, 1826, the act providing for, and directing the commencement of the canal, passed, and received the executive's approbation. In the house of representatives, after a severe contest, the majority, on the third reading, was twenty-nine; in the senate, four.

A number of the representatives voting against the bill, placed their reasons upon the journals.

Their principal motive, as set forth in the paper, appears to be, the want of information. They allege, in the first place, that the board of commissioners especially appointed for the purpose of acquiring, and furnishing for the legislature, information, and upon whom there had already been expended the sum of five thousand dollars, had not yet made their report. And that to pass the bill, compromised the house, without the possibility of retrogradation. In the second, that the estimates were not yet laid before them. And in the third, that a resolution desiring the amount of the proposed expenditure, having been opposed by the friends of the bill, they were without information absolutely necessary to them. These were the general reasons; but they urged some others more in detail, relating to the propriety, of so amending the navigation of the Susquehanna, that it might serve for both an ascending and descending transportation. They consider the construction of a canal by

the side of the Susquehanna, between the Swatara, and the Juniata, as a mere waste of money, as there are but few impediments in the navigation of the stream at that place. They concede, that they would have voted for a bill proposing a canal between the eastern and western waters, inasmuch as such canal would have opened a water communication where none existed. Their last reason is a singular specimen of logic. It consists in an objection to the introduction of a principle dangerous to the interests of all the Susquehanna counties, the authority to erect dams obstructing the navigation of the river. The dissentients admit that this result is guarded against by the provisions of the act itself; that, in case of any obstruction in the stream, a channel shall be previously made, equal to the natural. But they consider this to be insufficient and ineffectual; because, the legislature has, upon all former occasions, prohibited any device which may impede the navigation. They complain, lastly, that the bill "degrades the Susquehanna to the mere feeder of a navigable canal, authorizes impediments to the navigation of this great highway of nature, upon which the products of an immense territory are floated to market at an expense of one fourth the sum which would be requisite for transportation by canal."

Such sensibility to the practical capacities of the Susquehanna, formed of itself, a sufficient reason for any opposition. We shall not undertake the task of commenting upon its propriety.

The bill directs the immediate location of a canal, and the sale of contracts for its construction, from the river Swatara, at or near Middletown, to or near to a point on the east side of the Susquehanna, opposite the mouth of the Juniata; and from Pittsburg to the mouth of the Kiskiminitas. As soon as the commissioners shall deem it expedient, they are to construct a navigable feeder of a canal from French creek, to the summit of

vel of Conneareh lake, sufficient to convey at least two hundred and twenty cubic feet of water per second; and further to survey and locate the route of a canal from that place to lake Erie. Provided, that if it be necessary to obstruct the navigation of the Susquehanna, or Alleghany, the commissioners, before so doing, shall cause to be made a means of navigation equally safe and practicable as now exists in either river.

In case of a disagreement between the owners of land and the commissioners, a justice of the peace, upon application to him, is to direct by his warrant, the sheriff to summon a jury, who shall assess the damages; considering, at the same time, the benefit which may accrue to the party, from the proximity of the canal. They are not, however, to levy any contribution from the owner for the advantage. The inquisition is to be returned to the county court, and may be there traversed. An act passed on the 10th of April, 1826, contains provisions for the protection of the canal, and inflicts penalties for any violation of its enactments.

And by another act passed on the same day, four commissioners were added to the board, so that it now consists of nine members. They are entitled to no compensation, except their expenses.

The next and last act in reference to the construction of the canal, was passed on the 9th of April, 1827. The commissioners are, by that act, directed to locate and contract for making a canal, locks, and other works necessary thereto, up the valley of the Juniata, from the eastern section of the Pennsylvania canal, to a point at or near to Lewistown. Also, a canal, &c. up the valley of the Kiskiminitas, and that of the Conemaugh, from the eastern section of the Pennsylvania canal, to a point at or near to Bluffs-ville; and also a canal up the valley of the Susquehanna, from the eastern section of the Pennsylvania canal, to a point at or near to Northumberland. They are to cause surveys to be made

from Frankstown, on the Juniata, to Johnstown, on the Conemaugh, across the Alleghany mountains, so that they may determine, in what manner, and by what kind of works, whether by a permanent smooth road of easy gradation, or by a railway with locomotive and stationary engines, the portage may be the most advantageously effected. They are to examine the practicability and cost of an entire navigable communication between the west branch of the Susquehanna, and the Alleghany; and further, from Northumberland up the north branch of the Susquehanna, to the state line from the western section of the Pennsylvania canal, near the mouth of the Kiskiminitas, to a point on lake Erie, by the Alleghany river and French creek, at or near the borough of Erie; and from the city of Pittsburg, to said point on lake Erie, by the route of Beaver and Chenango; and make report on all these subjects. They are also to make further examination as to the side of the Juniata most suitable for a canal. And a majority of the board is to determine, where the canal shall cross the Susquehanna; and they are to decide between, and erect, either an aqueduct, or a towing path bridge.

They are to examine the route of a canal or railway from Philadelphia, through Chester and Lancaster, so as to form the most eligible connexion between it and the eastern section of the Pennsylvania canal; and further to examine the Brandywine river, to a point north of the Delaware state line—thence across the dividing ridge between said river and Chester creek, down to the Delaware. And if they shall ascertain that the Brandywine cannot be directed from its natural channel, then to make all the necessary examinations for a portage across the said ridge, by railway or otherwise. And they are, further, to examine the practicability and cost of a connexion of the north branch of the Susquehanna with the Lehigh, by means of a canal or railway; and, further, to examine from the termination of the Pennsylvania canal, at the

mouth of the Swatara, down the east and west sides of the Susquehanna, to the Maryland line, and make report hereon.

The commissioners are required to begin their operations on the ferder from French creek to the summit level at Conant Lake; and the sum of \$100,000 is appropriated for the purpose.

They are to examine the valley of the Delaware from Philadelphia, or Bristol, or any point between Bristol and the head of tide-water to Carpenter's point. If the commissioners shall approve, they are authorized to construct a canal between a point at or near Philadelphia, or at Bristol, or any intermediate point between Bristol and the head of tide-water, and a point at or near the borough of Easton; the expense not to exceed \$100,000.

Provision, similar to that contained in the law above noticed, is made in case of any disagreement between the commissioners and the owners of land. Power is given to the acting commissioners to make such alteration in the location of any township, county, or state road, as may appear necessary; and from his decision an appeal lies to the board.

The commissioners are to make examination of the valleys of the Conodoguinet, Yellow Breeches, and Conochequa creeks, with a view to the connexion of the Susquehanna and Potomac by a canal; and they are to report upon the practicability and probable expense. They are to view the ground from the west end of the Harrisburg bridge, to the borough of Chambersburg, in the county of Franklin, and from the west end of the Columbian bridge, through York and Gettysburg to Chambersburg, for the purpose of erecting a railroad. A survey and explanation are to be made of the east side of the Susquehanna, from the eastern section of the Pennsylvania canal to a point opposite the town of Northumberland. And the board is to decide whether to locate the canal on the east or west side of the river, or whe-

ther partly on one side and partly on the other.

The route of the Schuylkill and Delaware canal, below the city of Philadelphia, is to be examined. And the commissioners are to report whether this will form a link in the line of the Pennsylvania canal.

The governor is directed to raise a loan of one million of dollars, which is to be vested in the internal improvement fund. The loan is to be at five per cent, and the interest to be paid out of the auction duties. And the faith of the state is pledged to make up any deficiencies in the payment of interest.

By an act passed the 16th of April, 1826, the commissioners are to hold their offices for one year, and to be appointed by the governor. The compensation of the officers employed by the commissioners is to be fixed. Their reports, and a fair copy and journal of their proceedings, are to be presented every session to the legislature; and they are directed to enter upon their duties.

Under these laws the work of improvement was prosecuted in the state of Pennsylvania with a zeal and enterprise which gave the best assurance of success. Routes were explored and surveys made for canals to complete the water communication between the Delaware and the Schuylkill, and thence to the Susquehanna, called the union canal—between the Delaware and Ohio, called the Pennsylvania canal; and also to improve the navigation of the Schuylkill, of the Lehigh, and of the Susquehanna. A canal called the Lackawaxen, in continuation of the Delaware and Hudson canal, was also commenced, and other works contemplated, of which some account was given in our last volume. During the past year much progress has been made towards the completion of this great plan.

On the eastern side of the state, the combined company of the Delaware, Hudson, and Lackawaxen, are urging forward their works with much spirit. The canal from Kingston, on the

Hudson, to Carpenter's point, on the Delaware, was nearly finished, and was to be opened early the next season. It was then to be extended twenty miles up the Delaware, and thence up the Lackawaxen about forty miles, by a route not fully agreed upon, with the addition, perhaps, of a railroad to the Lackawaxen coal mines. This, by a route of about one hundred and thirty or forty miles, will open an extensive body of coal to the New-York market.

The Schuylkill navigation may be said to be now finished, and ready to undergo the best test of utility, a full trial. The union canal is also very far advanced. The greater part of the excavations have been made, the locks are nearly completed, the tunnel is in a forward state, the water-house is up, and the great dam nearly finished. The labour which has been performed upon this canal is prodigious; and the work, in particular the locks, executed in a style deserving the highest commendation. The works necessary to supply the summit level with water from the Swatara feeder, are completed. These works are a wheel of thirty-six feet in diameter, to be aided occasionally by a steam engine of 100 horse power.

The head of water by which it is intended to propel the wheel, is three feet. On the first trial, however, the head was only nine inches, and the gate raised two inches. With this force, the wheel moved majestically, operating upon two double forcing pumps of 14½ inches diameter each, and propelling the water through a raising main of 20 inches diameter, 850 feet in length, and 95 feet perpendicular height, with a facility which astonished all who witnessed the interesting sight.

The great Pennsylvania canal is also in a state of forwardness. We speak in relation to the eastern section, that portion which extends from the Union canal, at Middletown, nearly to the mouth of the Juniata, a distance of 25 miles. The western section 25 miles in the vicinity of Pitts-

burg, is under contract, and the work going on rapidly. The Chesapeake and Delaware canal is daily becoming more and more an object of attention and interest to the Susquehanna traders.

Some formidable obstacles to its progress have presented themselves, in the want of tenacity of some parts of the ground though, or rather over which the canal has to pass. The parts alluded to are bog or quicksand, and swallow up every thing placed upon them; earth, stones, and timber, in large quantities, disappeared in rapid succession. Even piles, driven to the depth of forty feet, do not retain their erect position for any great length of time. Measures, however, are in progress to overcome these difficulties.

In the list of public works, the improvements of the Conestoga, by a few enterprising citizens of the city of Lancaster, is not undeserving a place. The Conestoga is a fine stream; and the object of the improvement is to render it navigable by dams and locks, for a distance of eighteen miles, from the city of Lancaster to Columbia on the Susquehanna. The dams and locks are of timber, the interstices filled up with loose stone, and the whole faced or lined with plank—a plan, in our opinion, which nothing but its cheapness can recommend. The locks are formed in the dam, that is, extending from the face or breast of the dam the whole length of the lock up into the pool. The work is progressing steadily and well, so as to leave no doubt of its being completed, from the city to the Susquehanna, in the course of the next summer.

The first dam and lock are finished. The second lock is also finished, and the dam will be completed in a few days, and the third lock is progressing.

The materials used in the construction of this work being of a perishable nature, it was determined by the company, to build the locks above the breast of the dam instead of below. This novel plan is neat in appearance and promises to have the desired effect



of preserving the timber, the locks being immersed to a depth of two feet of the coping of the walls. The total want of experience, however, occasioned some difficulty in the commencement. The pressure under the foundation of the first lock was greater than had been calculated, in consequence of which, when the lock was emptied the bottom was forced up. This defect has been remedied by laying the foundations with solid timber. The lock pits are sunk in the rock, and the dams rest upon the same immovable foundation. The locks are one hundred feet long in the chamber by 22 feet wide, and will admit boats drawing three feet six inches water, and carrying from eighty to one hundred tons.

The first dam is two miles and three quarters in length; about two hundred feet wide, with never less than four feet in channel. The average length of the ponds is two miles. Several miles of the tow-path are finished.

The third lock shows evident marks of improvement. The foundation and walls are of excellent workmanship, and promise great strength and durability. The lift here is greater than at any of the others, and will afford a fine seat for extensive water works.

This work, however valuable in itself, as a local improvement, cannot become of extensive benefit, until that part of the Susquehanna is rendered boatable, which lies between the mouth of the Conestoga and the head of the Maryland canal. That once completed, the principal part of the commerce of this wealthy district of country will seek a market on the Chesapeake.

**December.**—The following account of produce, &c. which came down the various canals during the past season, shows the importance of the works now in progress in this state.

**THE LEHIGH.**—Trade down the river.

	Tons.
Coal shipped by the Lehigh coal and navigation company	31,080
Do. shipped by others	200

Lumber in boats	5,000
Do. in rafts 2,181,000 feet	2,181
Flour 8,184 barrels	818
Whiskey 781 do.	105
Rye 2,224 bushels	82
Corn 400 do.	11
Leather, live hogs, (100), potatoes, peaches	11
<b>Total—tons</b>	<b>30,218</b>

**THE JUNIATA.**—The Juniata Gazette gives the following estimate of the produce sent from the county of Mifflin during the late season.

Wheat	bushels	210,000
Rye	do.	13,000
Corn	do.	11,000
Oats	do.	11,000
Flaxseed	do.	2,450
Cloverseed	do.	8,350
Flour	barrels	68,950
Oil	do.	400
Pork	do.	1,504
Whiskey	do.	8,500
Butter	lbs.	125,000
Lard	do.	110,000
Iron	tons	500
Leather	do.	61
<b>Up Carriages.</b>		
Store goods	tons	725
Plaster	do.	1,320
Spanish hides	do.	72
Salt	barrels	5,500
Fish	do.	2,905

The navigation of the river is greatly increasing. The Pennsylvania canals, now or just about to be completed, will open a most valuable trade with the interior.

#### TRADE OF MOUNT CARBON.

Coal	15,815½ tons	\$101,457
Flaxseed	8,000 bushels	8,000
Wheat	12,000 do.	12,000
Rye	25,000 do.	20,000
Oats	10,000 do.	5,000
Flour	2,000 bbls.	8,000
Whiskey	1,500 do.	12,000
Cloverseed	200 bushels	8,000
Pork & beef	245,000 lbs.	9,800
Fish	2,500 bbls.	20,000
Butter	75,000 lbs.	7,500
Potatoes	15,000 bushels	4,500
Lumber	1,200,000 feet	8,400
Bar and cast iron	200 tons	15,000



**Merchandise sold**

Susquehanna.

Total value \$283,437

And, if, the value of houses and boats built be added, the whole sum will be \$321,000

One hundred boats are at present engaged in the coal trade—sixty of which were built during the last summer. It is supposed that fifty or sixty more will be added during the next season, and a great increase of business is expected.

**September**—One of the most valuable merchant mills in this state at York Haven, on the Susquehanna, belonging to Mr. Tyson, of Baltimore, with all its contents, (part of which was 12,000 bushels of wheat,) was destroyed by fire. The building of this mill cost more than \$50,000. It could make 200 barrels of flour in a day.

**MANUFACTURES.**—Bells for churches, screws for paper mills, various articles of cutlery and surgical instruments, and beautiful carpets or floor cloths, are made and supplied in quantities at York, Pennsylvania.

A law fellow by the name of Pluck, who is elected a colonel of militia, in order to bring contempt on that service, was cashiered and pronounced incapable of holding a commission in the militia for 7 years.

**November.**—**MOUNT CARBON.**—The "Miner's Journal" estimates the trade of Mount Carbon, for the season just closed, at the aggregate value of 283,437 dollars.

The *Harmonists*, at their new settlement near Pittsburg, are paying great attention to the breeding of sheep and the manufacture of woollen goods. They will have nearly 7000 acres of land for sheep-walks. In addition to the wool consumed in the district, \$12,000 worth has been sent over the mountains to market.

**Statistics of Philadelphia.**

city of Philadelphia contained in 1741, 1621 taxables, and has at present 11,120. The county, as it stood in 1741, when it included the whole

county of Montgomery, and a part of Bucks, contained 3422 taxables; the return of the same for 1826 is 22,986. That district called the Northern Liberties, has increased from 151 to 7996. Southwark &c. from 78 to 3349. Philadelphia still increases rapidly. The product of her manufactures, is many millions annually.

The anniversary of the landing of William Penn, was recently celebrated at Philadelphia. Thomas H. Wharton, Esq. delivered the oration. The society dined at the Masonic Hall—the venerable judge Peters presiding. Many distinguished persons were present, as invited guests—among them several foreigners.

**December.**—Isaac D. Barnard was elected a senator of the United States for six years, from the 4th of March, 1827, in place of Mr. Findlay, whose time expired at that period. Two ballots were taken, and several candidates were voted for.

1st vote. Isaac D. Barnard 55, Samuel D. Ingham 33, Joseph Hemphill 11, James Buchanan 10, William Findlay 10, Alexander Mahon 5, George B. Porter 3, Thomas Sergeant 1.

2d vote. Isaac D. Barnard 108, Samuel D. Ingham 11, Joseph Hemphill 5, James Buchanan 3, Thomas Sergeant 1.

An address was delivered at Philadelphia, by Peter A. Brown, Esq. to promote a geological and mineralogical survey of the whole state of Pennsylvania, the publication of a series of geological maps, and the formation of state and county geological and mineralogical collections, submitted to a meeting of a number of citizens, at the hall of the Franklin Institute, and approved, with the thanks of the meeting. It is estimated that the whole expense of making the survey, preparing the facts collected for publication, the engraving, printing &c. will cost about 50,000 dollars.

James Trimble, Esq. of Pennsylvania, has held the office of deputy secretary of state, for sixty years, and is yet an efficient officer.

Joseph Ritner was re-elected speaker of the house of representatives, and Alexander Mahon speaker of the senate of Pennsylvania—both unanimously.

*April.*—The state of Pennsylvania declined to act in concert with the Baltimore rail road company, in carrying that work into operation:

A number of persons in Lancaster county have turned their attention to the raising of tobacco; among others, a Mr. Rohrer, of Lampeter, advertises segars made from tobacco raised on his farm!

**PENNSYLVANIA MILITIA.**—Return of the militia and volunteers of Pennsylvania, for the year 1826;

Governor and commander in chief,	1
Major generals,	16
Brigadier generals,	32
Adjutant general,	1
Staff of general officers,	162
Infantry, (militia,) including officers,	136,941
Volunteer cavalry,	
66 troops,	1,359
Do. artillery, 44 companies,	2,289
Do. infantry, 250 companies,	16,153
Do. riflemen, 174 companies,	10,313
	<hr/> 30,613
Grand total	167,775

Orders were received at Pittsburgh for the manufacture of eight steam engines of twenty-one horse power, designed expressly for woolens.

**FARMERS' AND MECHANICS' MEETING.**—A meeting of the Pennsylvania society for the promotion of manufactures and the mechanic arts, was held on the 14th May. Charles Ingersoll, Esq. presided, and Redwood Fisher, was appointed secretary. The depressed state of the woollen manufacture, and of the market for wool, were the subjects of discussion.

A report upon these subjects, of considerable length, was read; and the following resolutions adopted:

*Resolved,* That the Pennsylvania society for the promotion of manufactures and the mechanic arts, do earnestly call on the farmers, manufacturers, and the friends of both branches of industry, to hold conventions in their respective states, as early as convenient in the month of June next, to appoint at least five delegates from each state, to meet in general convention at Harrisburg, Pennsylvania, on the 30th day of July, to deliberate on what measures are proper to be taken, in the present posture of their affairs.

*Resolved,* That the farmers and manufacturers, and the friends of farming and manufactures in the several counties of this state, be requested to appoint delegates to attend a meeting of a state convention, to be held at Harrisburg, on Wednesday, the 27th of June next, to take into consideration the present state of the wool growing and wool manufacturing interests, and such other manufactures as may require encouragement, and to appoint delegates to attend a general convention, for these purposes, to be held at Harrisburg, on the 30th of July next.

Various meetings were held in the different counties of the state during this month, to devise means for the protection of home productions, and best secure the encouragement and establishment of home consumption or a domestic market. At these meetings, delegates were appointed to the Harrisburg convention, and various resolutions passed, and committees appointed to aid in obtaining accurate information as to the condition of manufactures throughout the state. The delegates were Charles J. Ingersoll, Myhew Carey, Charles Huston, Walter Forward, Jonathan Roberts, Daniel Montgomery, Joseph Patterson, Joseph Ritner, James Todd, William Clark, David Townsend, Samuel Baird, William P. Maclay, Alexander Reed, Redwood Fisher.

1826.] DELAWARE.

*October.*—Mr. Charles Polk was elected governor, and Mr. Lewis

McLane re-elected member of congress. The following is the statement of the votes at this election:

	Governor.	Representative.
Counties.	<i>Belk. Harrod. St. Lane. Naudain.</i>	
New Castle	1,065 1,642	1,191 1,448
Kent	1,223 1,225	1,223 1,214
Sussex	2,106 1,371	2,202 1,274
	4,394 4,238	4,621 3,931

The summit bridge over the Chesapeake and Delaware canal, at the Buck tavern, in Delaware, was completed this month. It is 255 feet long, 90 feet above the bottom of the canal, and has but one arch.

*September.*—Daniel R. appointed by the governor of the state, a senator in congress, in place of Mr. Van Dyke, deceased, until the meeting of the legislature in Delaware.

*January.*—The legislature of Delaware, on the 12th inst. elected Henry M. Ridgely, Esq. to supply the vacancy in the senate of the United States, caused by the death of Mr. Van Dyke; and Lewis McLane, Esq. the representative in congress, a senator for six years from the 4th of March, 1827, in place of Mr. Clayton, whose period of service will then expire. The votes were as follows: for H. M. Ridgely, 16; Thomas Cooper, 1; Daniel Rodney, 2; Arnold Naudain, 2;—blank, 5; and for L. McLane, 20; T. Clayton, 5; A. Naudain, 1; James R. Black, 1; blank, 1.

The whole of the loan of \$200,000, asked for, to prosecute the Chesapeake and Delaware canal, was taken on Tuesday, as soon as the books were opened at Philadelphia, a considerable sum beyond that amount being offered.

*June, 1827.*—The town of Wilmington, Delaware, is about to be abundantly supplied with the pure water of the romantic Brandywine.

1826.] MARYLAND.

*September.*—The college of electors met at Annapolis on the 18th, for the election of the senate of the state.—36 members were present.

The following gentlemen were elected:—

**EASTERN SHORE.**—Littleton P. Dennis; Somerset; Edward Lloyd, Talbot; Irvine Spence, Worcester; Kinsey Harrison, Queen Anne's; J. T. Reese, Kent; William Whitely, Caroline.

**WESTERN SHORE.**—C. S. Sewell, Harford; R. Johnson, Baltimore; U. S. Heath, do.; W. H. Marron, Anne-Arundel; John Nelson, Frederick; Dr. James Thomas, St. Mary's; J. C. Herbert, Prince George's; B. S. Forrest, Montgomery; Daniel Sprigg, Washington.

It is remarked that, as the electoral college is composed of two electors from each county, one from the city of Baltimore, and one from the city of Annapolis; only one fourth part of the power of choosing the members of the senate is possessed by the city of Baltimore, which contains one fourth of the population of the state.

**THE VENERABLE CARROLL.**—The "American Farmer" of the 22d inst. says—"There are more than one hundred deer on the Harewood estate, from which the best buck is always selected as an annual offering to the venerable Carroll, of Carrollton, on his birth-day. The list of these returned on Wednesday last, the 20th inst. worn, in fine health and spirits, he received the heartiest congratulations of his family and friends, at his mansion on Ellridge. It was highly gratifying to see the last surviving signer of the Declaration of Independence passing into his *ninety*th year, still exhibiting so perfect a model of elegant manners, such a happy example of cheerfulness and intellectual refinement, erect and sprightly as any of the party; left, as it would seem, by Providence, to inculcate by their *visible* fruits the inestimable value of temperance, cleanliness, regularity in diet, and bodily and religious exercises, and a wise government of all the grosser passions. He plunges into his limestone spring bath every morning before sunrise, and still rides on horseback with pleasure, in

good weather. A large portion of the day is devoted to reading. Having received at St. Omers the best classical education, he has always retained his partiality for Latin and French literature."

*October.*—The senate of Maryland is composed of 15 members, and the house of delegates of 80—only two of the last senate and twenty-eight of the last house were re-appointed, or re-elected.

A curious case, in which the ancient theory of legislation of Maryland in relation to negroes, which considered them all as slaves, and subject to corporal punishment, was called in question, occurred in Baltimore. A white man had undertaken to inflict personal punishment on a black woman, not his slave, but she was not content to bear it long, and turned upon him and chastised him for beating her. For this she was brought before a magistrate, under an old law which authorizes *clipping* for the first offence in a black, and defending, but not herself in returning the assault and battery of a white person. But the case was dismissed.

*November.*—The sum of 15,000 dollars has been received by the state of Maryland from the general government, for military services during the late war, which is the last payment of money due on that account.

*MARYLAND INSTITUTE.*—The first exhibit of the products of domestic industry, under charge of this new and valuable establishment, took place at the hall in South Charles street, on the 14th, 15th and 16th insts. The variety and excellence of the articles exhibited, pleased and surprised every one, although the artists and workmen were not allowed full time to prepare themselves, and the principles of the institution were not fully understood.

Among the articles were—chemical preparations, cloths, cassimeres and satinetts, various sorts of cotton goods and carpeting, saddles and harness, leather of different kinds, cutting knives, fire brick, paper and paper hangings, articles of iron ware and castings, sash-boards, tables, pianos, &c. &c. and earthen ware, gloves

lace, silk, worsted, straw bonnets and platings, oil-cloths and carpets, shovels and spades, and many other things, most of which were of superior workmanship, quality, or beauty.

By a census recently taken, it is shown that the whole number of officers surviving of the famous and gallant *Maryland line*, is only fourteen.

*December.*—*LEGISLATURE.*—The legislature of Maryland met at Annapolis on the 25th; James W. McCulloh, of Baltimore county, was elected speaker of the house of delegates; Edward Lloyd elected president of the senate by an unanimous vote.

A resolution passed both houses, on motion of Mr. Tyson of Baltimore, that the governor's chair in the council chamber, the chair of the president of the senate, and of the speaker of the house, shall be shrouded in black, for the remainder of the session, as a tribute of respect to the memory of Adams and Jefferson.

1827.]—*January.*—Joseph Kent was re-elected Governor, with only two dissenting votes.

The message of Governor Kent was received with much approbation. A great portion of this valuable document was devoted to the subject of internal improvement, for the principles of which Governor K. is a warm advocate.

General Samuel Smith was re-elected a member of the senate of the U. States, for six years from the 4th of March, 1827. There was very little opposition to Gen. S., he having 73 votes out of 93.

*March.*—An act passed the legislature, appropriating one thousand dollars annually to the objects of the colonization society, to wit, the transportation and comfort of such free persons of colour as shall voluntarily emigrate to Africa, &c. It passed the house of delegates by a large majority, and the senate 8 to 4.

A law case was tried in Baltimore which excited considerable interest, as it involved the question of the constitutionality of a law of the state, which required importers of foreign merchandise, and other wholesale vendors, to take out annual licenses to sell, for

which fifty dollars was exacted. This cause—*Alexander Brown and others vs. the state of Maryland*—was argued before the supreme court of the U. States, by Mr. Meredith for the merchants, and by Messrs. Yancey and R. Johnson for the state. The decision of the court was, that the law was unconstitutional and void.

A bill chartering the Baltimore and Ohio rail road association, passed the Legislature on the 10th. A bill for the general promotion of internal improvement also became a law on that day. It gives \$500,000 to the Chesapeake and Ohio canal, on the condition of congress subscribing for 10,000 shares. It gives the like sum of \$500,000 to the *Susquehanna canal*, pro-

vided 8000 shares should be first subscribed by *bona fide* subscribers.

The culture of *Cotton* has but of late been commenced in Maryland, and it has succeeded beyond expectation. Dr. Muse had last season 30 acres sown with this article in Dorchester county. It was all uplands, and yielded one third clean cotton, whereas one fourth is the usual proportion in the southern states. The culture has also been successfully commenced in Northampton county, Virginia.

*June.*—Such were the ravages of the Hessian fly in the vicinity of Hagerstown, that most of the farmers had ploughed up their wheat fields, and planted them with corn.

## SOUTHERN STATES.

### 1826.] VIRGINIA.

*September.*—The university of Virginia has at present about 170 students within its walls. If the law lectures had commenced with the present session, it is calculated that the number would have increased to at least 200. There are students from all the states south of the Delaware, two from New-York. The architects are going on with the anatomical hall, and the rotunda. Of the latter, the library and the portico are rapidly advancing. The Italian capitals to the columns of the portico, are of the purest marble, and of the most beautiful workmanship. The faculty have established a dispensary, to be attached to the medical school, and to be attended three times in the week by the professor of medicine and his students.

At the superior court of law for Kanhawa county, Judge Sumners presiding, four bills of indictment were returned by the grand jury against John and Mathew Kincaid,

for the burning of Gauley bridge. The two first indictments, charging these individuals with felony, were set aside by the court, on the ground that, from the omission of the legislature, the burning of a bridge was not a felony, either by the statute or common law. On the indictments for misdemeanor, under the statute of Virginia, they were tried and a verdict of \$4,000 damages was found against each of the defendants.

Some cases of yellow fever, which terminated fatally, occurred at Norfolk.

*October.*—Particles of gold have been picked up, perfectly free of alloy, on the land of Colonel Lewis, near Lynchburg. It is a common occurrence, after a rain, to see it scattered over the soil.

**VIRGINIA TOBACCO.**—The Lynchburg Virginian, of the 14th inst. gives the following comparison of the principal inspections of tobacco in Virginia, ending the 1st October, 1825, and 1826.

1825.	Passed.	Refused.	On hand.
Richmond	9,254	3,041	11,552 exact.
Manasseter	2,911	644	85 "
Petersburg	5,866	2,067	1,595 "
Lynchburg	14,817	1,951	700 "
Farmvil	2,860	1,333	400 nearly

1826.	Passed.	Refused.	On hand.
Richmond	8,669	3,970	3,880 exact.
Manchester	1,552	886	284 "
Petersburg	1,479	1,482	1,695 "
Lynchburg	11,506	1,849	3,735 "
Farmvil	2,150	850	700 nearly.
	25,356	8,337	16,244

Tobacco exported from Virginia, from October 1st, 1825, to October 1st, 1826—23,412 hhds.

It is supposed, however, that the crop of 1825, was not larger than that of 1826—a great deal not yet having been brought to market.

*December.*—The Virginia house of delegates passed a resolution favourable to the calling of a convention to revise the constitution of the state; the vote was 103 to 98. The 103 in favour of the resolution were delegates from counties containing one fifth more of the population than the 98. The proportion would have been much larger, had only the free white population been represented in the table.

1827.]—*January.*—A bill was brought into the legislature of Virginia, to relieve a Mr. Lynch from the payment of taxes. Mr. L. is the father of 34 legitimate children, of whom 27 are now alive—he has been married four times, and is now a poor man.

The election of a United States senator took place on the 12th, Mr Randolph's time expiring on the 4th of March next. A great degree of public attention was drawn to the decision of this question, made important by the division of opinions existing as to the propriety or impropriety of the course taken by Mr. Randolph, in the senate's debates of the previous year. The result was the election of John Tyler, the governor of Virginia, who received 115 votes, John Randolph 110, and there were two scattering, so that Mr. Tyler, having a majority of the whole, was elected at the first ballot. This election does not seem to have turned upon considerations exclusively connected with the two prominent parties of the day. Mr. Tyler was known to entertain opinions which have been common to many of the statesmen of Virginia, upon some of the most important

branches of our national policy, and which have been often expressed and maintained by Mr. Randolph, so that in regard to what have been called the Virginia doctrines, there seems to have been no difference of sentiment to recommend the one in preference to the other.

Mr. Giles, in the house of delegates, moved the following resolutions:

*Resolved,* That a committee be appointed to inquire and report, whether or not, the exclusive jurisdiction over all the territory, persons, and things, within the limits of this commonwealth, was not secured to the government of this state by the constitution thereof; and whether private property was or was not, hereby, secured to the owner, against the power of the government, so far, at least, that the government could not, rightfully, take private property from the owner, and give it to another person, neither rendering public service.

That the committee be instructed to inquire and report, whether or not, any portion of this exclusive jurisdiction over territory, persons, and things, has since been granted to the general government by the constitution of the United States; and, if so, to specify, particularly, each, and every portion of such jurisdiction, which may have been so granted.

That, the committee be particularly instructed to inquire and report, whether any power has been granted to the general government to violate the right of private property at its discretion; and, more particularly, to take private property from the owner, and

give it to another person, neither rendering public service.

That the committee be instructed to inquire and report, whether the several laws passed by the general government, for the purpose of internal improvements, do not assert or involve a jurisdiction over the territory within this commonwealth, beyond the grants to that government, specified in the constitution of the United States.

That the committee be particularly instructed to inquire and report, whether the law, generally called the tariff law, does not violate the rights of private property, by taking it from its owner, and giving it to another person, neither rendering public service.

That the committee be particularly instructed to inquire and report, whether, under the operations of the said tariff law, a portion of the proceeds of the labour of the inhabitants of this commonwealth is not transferred to other parts of the United States, in violation of the two great principles upon which the constitution of the United States is founded, to wit: generality and equality; and, if so, to report, as far as practicable, the amount or the value of such proceeds, thus transferred.

If the committee should find all or any of these unauthorized assumptions of power, on the part of the general government—then, that the committee be, also, instructed to report such measures, for the adoption of the general assembly, as they shall think will most effectually tend to arrest these usurpations: to stay the hand of avarice and despotism; to reinstate the good people of this commonwealth in all their essential rights and liberties: and the government thereof, in all the rights granted and secured to it by the fundamental laws.

Mr. Giles supported these resolutions at considerable length and the committee approved, subsequently made a report, accompanied by these resolutions; the first denying the power of the general government to make internal improvements within

the limits and jurisdiction of the several states—the second solemnly protesting against the right of the general government to exercise any power which serves to draw money from the inhabitants of Virginia, into the treasury of the United States, except for carrying into effect the grants of power made in the constitution; and the third protesting against the claim or exercise of any power whatever, on the part of the general government, to protect domestic manufactures.

These resolutions passed the house of delegates thus—

The first resolution, 134 ayes and 47 noes.

The second resolution, 150 ayes and 19 noes.

The third resolution, 182 ayes and 12 noes.

A debate of great length took place on an amendment proposed by the senate to the preamble, and, on a substitute offered by general Taylor, discharging the committee from further consideration of the subject, which was rejected.

*February.*—William B. Giles was elected governor of Virginia in the place of Mr. Tyler, elected a member of the senate of the U. States. The votes were, for Mr. Giles 107, for Mr. Nelson 62, and for Gen. Floyd 37—Considerable debate took place in the house of representatives on the nomination of these gentlemen, and several letters from general Floyd were read, in which he expressed his disinclination to be nominated. One of these letters contained the following remarkable passage: "The combinations for effecting the elevation of General Jackson, are nearly complete, and I wish to remain in Congress until they are complete!"

A public dinner was given to general Floyd on the 22d; Mr. Giles was invited, but was prevented from attending by indisposition. A toast complimentary to general Floyd having been given, he addressed the company at considerable length, and expressed himself at large upon the ge-

policy of the national administration. He accused the general government of progressive enlargement of its powers, tending inevitably to consolidation and despotism. The following passage is worthy of being extracted:—

"But, there is a cheering prospect perceived through the dark cloud that seems to hang over the Union, produced by the daring claim to power, which the president made—*coalitions have been formed, and are forming, which will wrest the power from those hands so unworthy to hold it, because it is used to abridge the rights of the states, and the liberty of the people.* These are no coalitions of daring politicians, but the combinations of great states, who know their rights and will protect them; and combinations of the people themselves, who are determined to take the matter into their own hands, and elect a president for themselves, who will be their champion, and will respect their claims."

*June.*—*Richmond, Va.*—FESTIVITIES.—Occasion was taken on the anniversary of independence, to present to the representatives of Capt. John Ruelue, and Maj. Lucius Hunter Holmes, officers of the army who fell in battle during the war of 1812, the swords voted to them by the legislature of Virginia. The presentation was by the governor of the state, at the capital, Richmond, to T. Ritchie, Esq. as the representative of the first, and to Philip N. Nicholas, Esq. as the representative of David Holmes, Esq. the nearest of kin to the second: and was accompanied by appropriate addresses and replies.

*August.*—Three men named Grace, Whipple and Henderson, having suspicion that a negro man, named Isaac Reed, had stolen money from the farmer, inflicted upon him a severe flogging with a cow-hide, and having suspended him to the beams of the house, suffering his toes only to touch the floor, left him to remain in that situation. Returning some time after to discover what effect their cruelty had wrought upon him, they found

Isaac dead. A coroner's inquest inspected the body, and rendered a verdict that the deceased had come to his death by the hands of Grace, Whipple, and Henderson, who were apprehended with some difficulty and lodged in jail, all had being very properly refused to answer their trial before a called court of the county of Henrico. The suspicion of the culprits was directed against Isaac in consequence of the responses of an old heldane in the neighbourhood, who has set up as conjurer, and who was consulted by Grace on the occasion. The money was afterwards found, and the innocence of the unhappy victim established.

A captain Carter of Richmond, ordered a servant to take a negro boy, who had done something that displeased him, put a rope loosely round his neck and suspend him to the ceiling of a smoke house, seating him in a chair and tying his hands and feet: this the servant performed. Some time after the smoke house was visited by capt. Carter with an intention of releasing the offender, but he was beyond release, as he had been dead several minutes.

1826.] NORTH CAROLINA.

*September.*—A petition has been presented to the governor, praying him to call the council of state together, and advise with them on the propriety of laying an embargo, in order to prevent provisions of every kind from being exported from the state, during the present and ensuing seasons. This measure had its rise in the great scarcity of provisions experienced in North Carolina.

*October.*—A new gold mine, ten miles higher up the York, has been discovered in North Carolina. One lump, weighing ten pennyweights, has been found, and 12 to 15 pennyweights a hand, it is said, have been, sometimes, found per day.

The "gold region" in North Carolina appears to extend over a large tract of country, and the desire to hunt the precious metal, to be increasing. It is found in small particles, imbedded in ferruginous clay; and a bushel of earth yields an ave-



rage of about a grain and a half of gold. But the washing, and other labor to separate it, is tedious and troublesome.

A new system is proposed for working the gold mines by steam. An engine has been procured, and is to be put in operation at Chisholm's mine.

*November.*—A tremendous hurricane swept over the country about twenty-five miles above Salisbury, in nearly an easterly direction, on the 20th. The current of wind was 100 yards in width, and in its course it swept every thing from the face of the earth; such being its resistless fury, that the largest oaks were uprooted, and the heaviest rocks disengaged from their beds, and borne away. The large dwelling, kitchens, smoke houses, negro houses, and a great number of other out houses, with all their contents, belonging to Samuel Jones, Esq near the Yal-kin river, were swept from the ground, and scattered into a thousand atoms, for miles around the country. Two negroes were killed. All the buildings of Mr. Jacob Houver were also swept away, and his daughter, aged 11 years, killed. It is said that timbers, twelve inches square, were carried three miles, and some wearing apparel was found seven miles from the place whence it was taken. The forest through which the hurricane passed, was levelled to the ground.

1827.]—*April.*—New veins of gold ore have been discovered in Mecklinburgh county, which are said to be very rich. Those who have worked them, have been well compensated; one company having obtained 600 pennyweights in three weeks.

Three thousand dollars was given by the yearly meeting of the society of Friends, for the purpose of conveying certain people of colour from North Carolina. These people are not free, but the property of the society in the state, the laws of the state not permitting the formal emancipation of them. The society has long been in much difficulty on this account, and anxiously

desired to remove it. Several parties of these blacks have been sent to different places, that they might be free; a considerable number, however, still remain a burthen on the society, held responsible for their conduct, and yet incapable, according to its own discipline, to regard them as slaves.

*August.*—It is asserted that the members of the company formed to work the gold mines of North Carolina, have divided, each \$2,000.  
1826.] S. P. H. C. CAROLINA.

*September.*—The computation has been made, that the temporary emigration of southern citizens to the north during the summer months of each year, subjects Charleston alone to a loss of \$500,000. It is said that Charleston is decreasing in extent.

An elegant map of South Carolina was lately published, which cost the state the sum of \$90,000.

*October.*—An anti duelling association has been formed in Charleston, consisting of citizens of all religious denominations. At a meeting held on the 3d, a committee was appointed, of which Messrs Bowen and England, and judges Johnson and Lee, were members, to frame a constitution. General Pinckney was elected president, and a standing committee of nine appointed, of which judge Johnson is chairman. A memorial to the legislature was ordered to be drawn up by judges Johnson and Lee; and Doctor England appointed to deliver an address at the next meeting. By the constitution of the society, every member is bound to give information of any contemplated or appointed duel of which he may have knowledge, and a meeting of the committee is then to be summoned, and measures are to be adopted to prevent such duel.

*December.*—William Smith, formerly of the senate from the state of South Carolina, has been re-elected to supply the place of the late Mr. Gaillard. The election was a close one. For judge Smith, 81; judge Huger, 81. Mr. Harper sat in the place of Mr.

Grandard a part of last session, by executive appointment.

The house of representatives of South Carolina, having appointed a committee on that part of the message of the governor, which recommends an alteration of the constitution of the United States, so as to take, for ever four Congress, in any event, the power of electing a president, the committee, after much deliberation upon the subject, asked leave to be discharged from its further consideration, which was agreed to, by an almost unanimous vote.

*January, 1827.*—A meeting of 157 members of both branches of the legislature of South Carolina, (108 representatives, and 29 senators,) was held at Columbia, on the 19th, at which the following resolution was passed:

*Resolved.* That the state of South Carolina will support General Andrew Jackson as the next president of the United States.

A preamble and resolutions from the senate was read by the speaker, appropriating the sum of ten thousand dollars of six per cent. stock, redeemable in the year 1850, to the legal representatives for the benefit of the heirs of THOMAS JEFFERSON. On the motion being put they passed unanimously, without a dissenting voice. They had passed the senate with nearly the same unanimity. Much enthusiasm seems to have been felt by the members of the house on the passage of the resolutions. The yeas and nays were called for; but only six persons rose to sustain the call, and this movement was met with cries of *shame*, and other tokens of disapprobation. The dissent of seven members being required to demand the yeas and nays, the speaker declared that they were not demanded. This declaration was received with shouts and acclamations.

*May.*—A noble bridge has been built over the Congaree, at Columbia, where the river is 1400 feet wide, and the water rises 32 feet above its lowest level. These show the greatness of this work. The abutments and piers

are of granite, the superstructure of wood, roofed and weatherboarded. The whole cost will be about \$80,000.

*July.*—There are now living in two adjoining *beat companies* in York district, eighteen revolutionary soldiers, of whom two were captains, and one a sergeant. All except two, lived in the same *beats* during the revolutionary struggle; and none of them have ever applied for a pension. They are from the ages of sixty-two to ninety years, and live within ten miles of each other.

*August.*—A gold mine has been discovered in Union district, on the waters of Tyger river. The ore is said to be of such extent as to afford employment to 500 hands at good wages. A specimen of the gold has been pronounced by Dr. Cooper, equal in purity to any he ever saw. A company is expected to be formed to work the dust.

1826.] GEORGIA.

*September.*—The surveys of the line between Alabama and Georgia, and the canal through the Cherokee country, are going on without interruption. The commissioners have disagreed as to the establishment of the boundary; but those on the part of Georgia were continuing their survey of a line according to their construction of the compact of 1802.

*October.*—The Creek Indians directed the Georgia surveyors to retire from their lands, until the period for their cession shall have arrived. Some of the surveyors returned to Milledgeville. They were kindly treated by the Indians, who forbade the surveys, because they would interfere with their own private concerns. They would have permitted a running of the county lines, but opposed a more frequent passing through their country, until it should be given up, as stipulated by the treaty.

TRADE OF SAVANNAH, &c.—During the year ending thirtieth September, there arrived in the different ports of Georgia, chiefly at Savannah, 580 vessels, of which

150 were ships, 91 brigs, &c. Of the whole, 29 were British, and 8 French ; all the rest American. The exports were as follows :

For 12 months, ending September 30, 1826.				
	Cotton—bales.		Tierces.	Hhds.
	Uplands.	S. Island.	Rice.	Tobacco
Foreign,	102,616	5,870	4,973	123
Coastwise,	81,622	470	6,477	47
	<hr/> 184,238	<hr/> 6,340	<hr/> 11,455	<hr/> 170
Same period last year.				
Foreign,	57,401	7,505	2,151	11
Coastwise,	72,525	284	5,081	3
	<hr/> 129,926	<hr/> 7,789	<hr/> 7,236	<hr/> 14

The whole valued at six millions eight hundred thousand dollars, besides lumber and other articles exported ; and showing a considerable advance on the business of the last year.

The senate of Georgia consists of 65 members, of whom 34 are considered for Troup, and 31 for Clark : the house consists of 129 ; 71 for Troup, and 57 for Clark. Majority in the senate for Troup, 3 ; in the house, 14 ; making on joint ballot, 17.

Mr. McCall, of Georgia, is cultivating the vine pretty extensively—and it is stated, he has proved the fact, that one acre of land will yield as many grapes as will produce 400 gallons of wine—the clear profit of which is estimated at 160 dollars.

The message of Governor Troup adheres to the rights of the state, which he has formerly maintained, in every respect. But the language in which those rights are asserted, is far more moderate than that of his former communications.

*November.*—Resolutions were introduced into the house of representatives on the 7th, recommending Andrew Jackson as the next president of the United States.

*December.*—From late reports to the legislature of the state, it appears that the bank of Augusta has notes in circulation to the amount of \$288,183, and specie in its vaults to the amount of \$243,218. The doubtful debts are estimated at \$10,000, and she had on hand at \$7,285. Amount

of undivided profits, \$77,917. The Planters' bank has in specie and specie funds, \$257,259. Notes in circulation, \$193,113. The state bank and branches have in circulation \$932,529 ; in specie and specie funds, \$333,920. The Darien bank has in circulation, \$133,452, and in specie, \$13,159. The loss sustained by this bank at Darien, is stated at \$340,000. The Macon branch lost \$10,000, and the Milledgeville, \$20,000, out of one million which was loaned there. The president of the bank thinks that all its notes, except those in the treasury, (amounting to \$600,000,) will be called in by the 1st March.

The treasurer's report shows that expenditures of the past year have been \$316,156 13, and a balance is remaining in the treasury of \$792,122 01, of which \$600,000 is in Darien notes.

MILLEDGEVILLE, Nov. 24.

In the senate, yesterday, the following resolutions were read and adopted :

*Resolved*, That the committee on the state of the republic, be instructed to inquire into the expediency of framing a complaint to the house of representatives of the United States, against the president, for not removing colonel John Crowell, the agent for

the nation, he having been seldom solicited to do so by the legislature of the state.

"*And be it further resolved*, That the same committee be instructed to inquire into the expediency of framing a complaint to the house of representatives of the United States, against the president, for not arresting and trying general Gaines, for the repeated insults offered to the authorities of Georgia, although the president admitted the insults to have been offered by general Gaines."

Resolutions passed both branches of the legislature, the substance of which conveys a request, that the president of the United States take proper steps for holding a treaty with the Cherokee Indians, the object of which shall be the extinguishment of their title to lands in the state of Georgia.

1827.]—*January*. Governor Troup has declined a re-election to the office of chief magistrate of Georgia. Mr. Forsyth, now a representative in congress, has been nominated by certain members of the legislature as a candidate to succeed him.

The law by which the state was divided into districts for the election of representatives in congress has been repealed, and they will be chosen by a general ticket.

The acts of the last session of Georgia which established a board of public works, and directed the survey of the route for a central canal, &c. have been repealed.

*February*—As to the dispute with the Creeks, the Milledgeville Journal of the 30th ult. has the following:—

"Col. Buley has returned. 'The Little Prince,' we understand, disavows any other intention, in his proceedings in regard to the surveys, than merely to protest against their laying off the land beyond the new treaty line into lots. He denies having given any order to take away the compasses, and will direct them to be returned forthwith."

After much correspondence between Governor Troup and the Secretary of War, relative to the survey of the In-

dian lands, on the 17th an order was published by the Georgia executive, directing all attorneys and solicitors general, in every instance of arrest of a surveyor, to take legal measures to bring to justice, by indictment or otherwise, the parties concerned in the arrest. Another order dated, *Head Quarters, Milledgeville, Feb. 17*, was issued to the Major General of the 6th and 7th divisions of militia, to hold in readiness the regiments of their divisions to repel any hostile invasion of the territory of Georgia.

A letter was written on the 21st by Gov. Troup to the senators and representatives in congress, in which the following passage occurs:

"You are at liberty to state to the councils before whom you represent the interests and rights of this state, what has been repeatedly represented to the president himself, that the Government of Georgia has never, at any time, entertained the idea of resorting to military force to counteract measures of the government of the United States, but on the occasion where it was deemed better in honour, its conscience, and in duty, to sacrifice every thing we hold dear, than unhesitatingly to submit. On the last occasion, when military coercion was threatened, the president was promptly and candidly informed of my resolution to meet that coercion in a military manner. So far as a determination was expressed to resort to the civil process, it was decided to resort to the like process to sustain, according to the constitution and laws of the U. States, and the constitution and laws of the state, the public officers of Georgia engaged in the execution of their duties under the orders directly of its legislative and executive authorities—an obligation on our part, enjoined by the very sanction which the president, in his late message, refers to, as being paramount to any human power, and of course, equally imperative with us as with him."

Major John W. Hunter has been appointed by the war department, at the recommendation of the whole Georgia delegation, agent for the set-

tlement of the claims of the militia of Georgia, for services rendered during the years 1772, 1773, and 1774.

*March.*—The territory lately acquired from the Creeks, is divided into the counties of Lee, Troup, Coweta, and Carroll.

*June.*—A recent examination of the Savannah, Ogeechee and Altamaha canal, has convinced the directors that it will be completed the present season. A boat has passed the lock beyond the little Ogeechee.

A difference has arisen between the commissioners of the U. States and the state of Georgia, on running the boundary line between the latter and Florida, and their further progress has been suspended by governor Troup.—Thomas Spalding, Esq., commissioner on the part of Georgia, has returned to Darien, and Thomas Mann Randolph, Esq., commissioner on the part of the United States, to Milledgeville.

Mr. Habersham, the district attorney of Georgia, resigned his station, as it appears by a letter of his published in the Savannah Republican, because he could not, according to his views of right and wrong, proceed against the surveyors of Georgia, trespassing upon the Indian territory—as directed by the general government to do. His resignation was forthwith accepted, and a successor, Mr. McAllister, appointed.

The drawing of the Georgia land lottery was finished on the 26th. By this lottery, twenty-three thousand lots of land, of two hundred and two and a half acres each, composing five counties, have been distributed among the inhabitants of that state. Had the land been retained by the state as a fund for public purposes, and sold at a dollar and a quarter per acre, the minimum price at which United States lands are sold, it would have produced the sum of \$5,821,875.

By a statement published in the Milledgeville Statesman, it appears that 1,672 revolutionary soldiers, 570 widows of revolutionary soldiers, 49 idiots and lunatics, and 258 illegitimates, have drawn prizes in the late

land lottery. Total number of draws, 75,153.

The object of the lottery was to distribute among the people of the state, the newly acquired lands, which form five counties. These lands, for the purpose of distribution, were surveyed into 22,998 square lots, of 202½ acres each, making 4,657,094 acres. There were besides a considerable number of fractional sections, which, we believe, are reserved to the state. The whole territory amounts to 4,829,520 acres.

*July.*—The Creeks have resisted the cession of the lands beyond what is called the treaty line. They decline all further negotiation for the lands embraced by the old and not the new treaty line. In consequence of these demonstrations, Col. Crowl, who used his exertions to prevent them, has gone to Washington to make a full representation of the case.

William H. Crawford was appointed a judge of the superior court of Georgia, and has accepted the office.

On the 2d inst a fire broke out in the city of Augusta, which destroyed seventeen houses. The loss was estimated at 55,000 dollars, of which 15,000 was insured.

A town to be built at the falls of the Chatauchie is to receive the name of Wewokah, which is the Creek language, signifies "troubled waters."

In the report of Mr. Gill, the engineer of the Ogeechee canal, he informs the directors, that of the whole line of canal, embracing 16½ miles, its intended length, 8 miles and 43½ chains of it is finished; on which \$74,144 29 have been expended, leaving 7 miles 56½ chains yet to be completed, the cost of which will be \$64,392 65. The part finished presented many difficulties, which will not be met with in the remaining portion, and every thing promises its full completion early the ensuing year.

*August.*—An excessive drought was experienced during this month. From almost every part of the state, the most melancholy accounts were heard of its long continuance, and the utter

prostration of the hopes of the farmer.  
1826.] ALABAMA.

*September.*—The commissioners appointed to run the line between this state and Georgia have disagreed.

*December.*—Mr. Pickens, on account of ill health, has resigned his place as a member of the senate of the United States from Alabama.

John M. Koussy Esq. has been appointed a senator of the United States, by the legislature of Alabama; vice Mr. Pickens, declined. His majority over Clement C. Clay Esq. was three votes.

The legislature of Alabama, at its last session, passed an act to prohibit the importation of slaves into that state for sale or hire. The act provides that any person carrying negroes into the state after the first day of August next, for sale or hire, shall be liable to a fine of \$1000 for each negro so carried into the state, and imprisonment. It further provides that persons who carry slaves into the state for their own use shall not sell or hire them within two years of their arrival.

*April, 1827.*—Governor Murphy has addressed a letter to the President and Directors of the Bank of the United States, in substance protesting against the establishment of a Branch Bank at Mobile, on the ground that the state desired to depend on its own public efforts; and that an attempt to force a branch on the people of the state, against the wishes of the people, would be obnoxious to them and to those who hold authority under them. The letter concluded by requesting that no definitive measures might be taken until the meeting of the next legislature. In reply, the President of the Bank, N. Biddle, Esq., states that the establishment of a branch at Mobile had been requested by many respectable citizens, and that it had been decided upon with a view to the convenience of the inhabitants of the state to facilitate the management of the revenue. He could perceive no benefit that would arise from delaying the operations of the officers who had already been appointed to open an office at Mobile. The board of directors, therefore, declined the postponement requested.

*July.*—*Burning a Negro.*—In the early part of this month, in the northern part of Perry county, a Mr. McNelly having lost some clothing or other property of no great value, the slave of a neighbouring planter was charged with the theft. McNelly, in company with his brother, found the negro driving his master's wagon, they seized him, and either did, or were about to chastise him, when the negro stabbed McNelly so that he died in an hour afterwards—the negro was taken before a justice of the peace, who, after serious deliberation, waived his authority—*perhaps* through fear, as the crowd of persons had collected to the number of seventy or eighty near Mr. Peoples' (the justice) house. He acted as president of the mob, and put the vote, when it was decided he should be immediately executed by being drawn to a tree and tied to it, and a large quantity of pine knots collected and placed around him, and the fatal torch applied to the pile, even against the remonstrances of several gentlemen who were present, and the miserable being was in a short time burnt to ashes. An inquest was held over the remains. This is the second negro who has been thus put to death without judge or jury in that county.

*August.*—In consequence of certain publications in the Hinesville Democrat, the editor Mr. Willis, was killed in an affray with James McCune, Esq. of that place. Both parties were armed with pistols. It seems that Mr. McC. had demanded the author of certain severe strictures upon his conduct, and it was intimated that it would be given to him by Mr. W. But the latter declined to give up the name and armed himself—hence the fatal affray. Mr. McC. was a candidate for a seat in the state legislature, but has declined a pull, because of the event just stated.

1826.] MISSISSIPPI.

*September.*—*Cholera*, called the "old plague," prevails near Fort Adams, Miss. and carries off persons in 48 hours.

*November.*—Adriel was lately caught

by two citizens of Mississippi with muskets, loaded each with fifteen buck-shot, standing at the distance of thirty paces—both were wounded, one severely.

#### 1826.] LOUISIANA.

*November.*—The following is the amount of cotton and tobacco exported from New-Orleans during the last five years, exhibiting an increase of 100,000 bales in four years in the export of cotton; but a decrease in the average of tobacco:

	<i>Bales of cotton.</i>	<i>Hhds. tobacco.</i>
In 1822	156,030	21,995
" 1823	171,431	19,371
" 1824	143,943	5,910
" 1825	204,557	16,849
" 1826	251,924	18,180

Several canals have been projected in Louisiana, especially one from New-Orleans to lake Barrataria, which will much facilitate the trade with Mexico, and materially tend to strengthen our south-western frontier.

The debt of the corporation of New-Orleans is \$303,728—the annual revenue of the city is \$185,000, which, it is said, may be considerably increased by licenses.

The salaries of public officers are higher in Louisiana than in any other state in the Union. That of the governor is 7,500 dollars; that of the judges of the supreme court, 5,000 dollars.

*Education.*—Great attention is paid in Louisiana to education, as can be shown by the following statement:

In 1811, the legislature appropriated \$39,000 to the establishment of a college, and a school in each county. By the same act \$3,000 was appropriated annually for the support of the college, and \$500 a year for each school. In 1819, the allowance for the support of schools was increased to \$600, and in 1821 to \$800 a year each. Since which, \$1,000 a year has been appropriated for the support of another college, at Jacksonville in the same state.

*June.—Capture of a Pirate.*—The revenue cutter, stationed at the port of

New-Orleans, under the command of Captain Jackson, recently brought to the city a pirate captured at the S. W. pass. She had been in chase, and fired into the American schooner *Isabella*, from Vera Cruz, with specie and passengers on board. The pirate was lying at the S. W. pass, and had sent his boat with thirteen men around to intercept the *Isabella* at the upper end of the pass. The cutter captured the boat likewise, making altogether thirty men and officers. The vessel proved to be the *Bolivar*, with a national commission from the republic of Colombia, and then under the command of her first lieutenant, the captain being in Mobile, where he and his crew had been hospitably treated and supplied. The pirate attempted the seizure of a vessel *within* the Mississippi, the *Isabella*. They had previously captured the American schooner *Antoinette*, against which our consul at Tampico protested.

The *Antoinette* was afterwards recaptured. Being short of provisions, she came to anchor off the S. W. pass, where she was boarded by a pilot boat. The pilots proposed to Captain Bate-man of the *Antoinette*, to retake his vessel, which he acceding to, an attack was made on the prize crew, when the prize master and six of his men attempted to escape, by jumping overboard, but were taken and secured.

*August.*—A long continued drought was experienced in many parts of Louisiana, especially near St. Francisville. For the period of six weeks no rain had fallen, and the thermometer ranged from 80 to 92. In June, it was said that the corn was seen withering in the field for want of moisture, which was never witnessed before.

#### 1826.] TENNESSEE.

The judicial system of Tennessee consists of a court held quarterly by five justices selected from amongst their own body for one year, three of whom are a quorum to do business. Besides this there is a superior circuit court, held in each county twice a year, holding with the county courts concur-

rent jurisdiction in all civil matters, and exclusive jurisdiction as to criminal offences of higher grade than petty larceny. The chancery jurisdiction has lately undergone some alteration: two chancellors hold jurisdiction throughout the state of all chancery matters.— Lastly, there is a supreme revising court composed of three judges. This is a revising tribunal of the chancery and other courts, upon all questions arising either in law or equity.

A Bank was created in Tennessee in 1819, the stock in which exclusively belongs to the state. During its operation the dividends have never been appropriated, and the consequence is, that nearly the whole amount of the original issue has been redeemed. The operations of the bank is by a president, who receives a salary of \$1000; and ten directors, who are paid \$100 a year. They are elected for two years by the legislature, and are constantly eligible. No discount of accommodation paper can be had for a larger amount than \$500.

*September* —The present cotton crop is estimated at 50,000 bales—10,000 more than the year previous.

*October*.—A duel recently took place between gen. Houston, one of the representatives in congress from Tennessee, and gen. William White. The latter was the challenger, and badly wounded. The affair grew out of discussions and proceedings relative to the appointment of Mr. Erwin, postmaster at Nashville. At the time of this duel Gen. Houston was a candidate for the office of governor of Tennessee. An extraordinary act of a grand jury grew out of this affair.—The grand jurors of the county of Williamson made a presentment, in which they declare, that there is nothing in the recent duel between Gen. Houston and Gen. White to impair the public confidence in the former, and they therefore recommend him as a fit person to be the next governor of the state.

*November*.—John H. Eaton was, on the 4th inst by a joint ballot of both houses of the legislature, re-elected a senator in congress, for six years, com-

mencing from the 4th of March, 1827, the expiration of his present term. Mr. E. had all the votes but three—which were blanks.

*December* —The Nashville bank, which resumed specie payments some time ago, has again suspended them. From the first of September no less than 260,000 dollars had been drawn out. A run was apparently made upon it.

In the legislature Mr Fletcher presented resolutions, accompanied with a forcible preamble, in which, among other reasons for extending the judicial system of the union to the new states, gives the following:

“Most of the western states, even in name, and all but two in fact, are denied the advantages, to which, upon the principle of equal rights, they are entitled, of having a justice of the supreme court to aid the district judge in the inferior courts, though many of the decisions of those courts, both in civil and criminal cases, are conclusive. Often, too, the district judge is incompetent, from relationship or interest, to preside, and sometimes he declines from delicacy.”

The following are the resolutions which were unanimously adopted:

*Resolved by the General Assembly of the State of Tennessee*, That the Congress of the United States ought immediately to extend the present judicial system of the Union, long tried, and well approved, to all the states.

*Resolved*, That our senators in congress be instructed, and our representatives be requested, to spare no exertions to have that object effected.

*Resolved*, that the governor be requested to forward copies of the above preamble and resolutions to each of our senators and representatives in congress, and to the governors of each of the western states, and ask the latter to lay them before the legislatures of their states, respectively, at the next session.

*January, 1827*.—The legislature of Tennessee has adopted, by an unanimous vote, a resolution directing the secretary of state to procure at the ex-



pense of the state, and to deliver to Major Gen *William Carroll*, a sword, with suitable engravings thereon, as a testimonial of the high respect entertained by the state of Tennessee for his public services.

*July.*—Messrs. Vail and Swift, United States Engineers, were engaged in examination of the muscle shoals in Tennessee river, in order to ascertain whether the obstructions to the navigation can be removed.

*Nashville, Ten.* is one of the most flourishing towns of the south-west. The present population is estimated at 6000, about 2000 being added since 1820. Twenty steamboats ply to New-Orleans and Pittsburg, and from 35 to 40,000 bales of cotton are exported. It is this, probably, which has caused so great an increase of population and wealth at Nashville; the *extensive* cultivation of it is of recent date, but spreading over Tennessee generally.

#### 1826.] KENTUCKY.

*September.*—The old court party has been successful in obtaining majorities in both branches of the legislature.

A young man was executed at Lexington for the crime of murder, committed in the penitentiary, at that place. The feelings with which he met his execution are very singular: some days previous to his execution, he expressed himself satisfied with his condemnation. He had rather, he said, much rather, be executed, than serve out his remaining *three years* in the penitentiary. He had served long enough, he thought, (10 months.) to punish him for all the offences he had ever committed. He felt in his present situation, inconceivable distress; and as to his execution, only regretted that the day was so far off.

*October.*—*DESHA.*—Another attempt was made during this month, for the trial of I. B. Desha, for the murder of Mr. Baker, and failed—many of the principal witnesses being absent, and the prisoner himself not able to attend at the bar.

*November.*—The Choctaw academy is in a flourishing state. The second

examination of the pupils lately took place in the presence of 500 people, and the boys acquitted themselves much to the satisfaction of all parties. There are 53 Choctaw students at the establishment, which is under the patronage of the Baptist general convention—the funds are supplied by the nation out of the annuities payable by the United States.

Isaac B. Desha was admitted to bail by judge Brown at the Harrison circuit court. The recognizances were 1000 dollars, and two sureties for the same sum.

The total valuation of the taxable property in the state as shown by the commissioner's books, is 152,191,953 dollars. The tax on property is 85,120 dollars, and 6 cents. Total of taxes collectable by the sheriffs in 1826, and payable at the treasury on the 1st day of December next, one hundred and two thousand, nine hundred and twenty-seven dollars, seventy-one cents.

The valuation of property in 1824, amounted to \$123,885,118. The tax on property to \$77,425; and the total taxes collectable by the sheriffs in 1825, and payable at the treasury on the 1st day of December last, amounted to \$84,996.

*December.*—Mr. Justice Trimble delivered an opinion in the federal court on the 27th ult. in which judge Boyle concurred, *sustaining the occupant laws of Kentucky where they apply to all private rights and interests* in lands held by titles that are derived by *descent, devise, or by deed*; and restricts the application of the 7th article of the compact with Virginia to patentees, or grantees only, whose *rights and interests* are derived from the laws of Virginia.

*January, 1827.*—A bill passed both houses to repeal the law establishing the new court of appeals. The governor has put his *veto* upon it.

At a subsequent day the objections of the governor were considered by the two houses, and the law was passed without his sanction. Such a decision is provided for by the constitution, which

authorizes "a majority of the members elected" to pass a law against the veto of the governor. The vote stood in the senate, 24 for, and 12 against it; in the house 54 for, and 33 against it. The passage of this act is considered the harbinger of peace to the state of Kentucky, which has so long been torn by discord and disorganization.

On the decision being made known, the governor nominated Mr. George M. Bibb as chief justice of the commonwealth, in place of Mr. Boyle, who resigned on being appointed United States judge for the district of Kentucky; and although Mr. Bibb had been one of the judges of the new court, the nomination was approved by the senate, 21 to 7.

**March.**—Six hundred thousand dollars of Kentucky Commonwealth's bank paper, were consigned to the flames at Frankfort on the 15th, in pursuance to a resolve of the legislature. This makes in all, \$1,473,000. There yet remains on hand, \$500,000—leaving about \$500,000 in circulation unredeemed.

**COLONIZATION.**—The following resolution has been adopted by both houses of the general assembly of the state of Kentucky:—

"*Resolved, &c.* That they view with deep and friendly interest the exertions of the American colonization society, in establishing an asylum on the coast of Africa, for the free people of colour of the United States; and that the senators and representatives in congress from this state be, and they are hereby, requested to use their best efforts to facilitate the removal of such free persons of colour as may desire to emigrate from the United States to the colony, and to insure to them the protection and patronage of the general government, so far as may be compatible with the safety of the United States."

**July.**—**ISAAC B. DESHA.**—Cynthiana, Ky. June 16. The June term of the Harrison circuit court commenced its session on Monday last, the hon. H. O. Brown presiding. The prison-

er appeared in discharge of his recognizance, and the attorney of the commonwealth, on Tuesday, signified that he was ready. The law of the last session, declaring that an opinion formed from 'mere rumour,' should not be a cause of challenge, has been decided to operate upon this case; because it did not alter the ancient mode of trial by jury, but only changed a rule of practice upon which judges themselves have differed. Owing, however, to the impracticability of procuring a jury, the trial of Desha did not come on at the late term of the Harrison circuit court. Since the adjournment of the court, the prisoner has received the pardon of the governor, [his father,] and is now going at large.

The following is a copy of the paper issued by the governor of Kentucky, for the pardon of his son, Isaac B. Desha.

"Joseph Desha, governor of the commonwealth of Kentucky, to all who shall see these presents, greeting:

"Whereas, at a court held for Fleming county, in the year 1824, an indictment was found by a grand jury against Isaac B. Desha for the murder of Francis Baker, on the second day of November, 1824: And whereas, the said Isaac B. Desha was, by a change of venue, removed from the jail of Fleming county to the jail of Harrison county, there to stand his trial for the said charge of felony; where he has long been confined in jail, after repeated attempts to obtain a final trial, until the prospect of obtaining a jury is entirely hopeless. And it being contrary to the genius of our government for any person to be confined for life in prison, the constitution guaranteeing, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage. And whereas, the whole of the evidence against the said Isaac B. Desha, being circumstantial, and from much of it being irreconcilable, I have no doubt of his being innocent of the foul charges; therefore, he is an object worthy of executive clemency.

"Now, know ye, that in consideration

of the premises, and by virtue of the power vested in me by the constitution, I have thought proper, and do hereby grant to the said Isaac B. Desha a full and free pardon for the supposed offence, as alleged against him in the bill of indictment; and do by these presents order and direct that the said Isaac B. Desha be released from the confinement and recognizance, and be thence forever discharged.

"In testimony whereof, I have hereunto set my hand, and have caused the seal of the said commonwealth to be hereunto affixed. Given under my hand, at Frankfort, on the 18th day of June, A. D. 1827, and in the 36th year of the commonwealth.

By the governor, Jos. Desha.  
J. C. Pickett, *secretary*."

*August.*—*Bank of the Commonwealth.*—This institution has now in circulation, according to the reports on the first of July, notes to the amount of \$812,884 57. For the purpose of redeeming these notes, she holds the notes of individuals for loans made to the amount of \$1,426,762 65, and real estate to the value of \$30,592 82, making in all \$1,457,454 47, leaving an excess over and above the amount to be redeemed, of \$648,469 90. 1828.] OHIO.

*September.*—Among the canal boats that arrived at Albany during the early part of this month, was the "*Lion of Ohio*," with pig-iron and stores, direct from Madison county, Ohio.

The facilities afforded to the transportation of goods, by the New-York canals, to Ohio, are strikingly exhibited in the following statement: "It takes thirty days to transport goods from Philadelphia to this place, and costs five dollars per hundred. From New-York city to this place, twenty days, and costs two dollars and fifty cents per hundred. Difference one half in expense—or, a saving in the transportation of five tons of merchandise from the city of New-York, of the sum of two hundred and fifty dollars: in addition to which they are

conveyed in two thirds of the time from New-York, that they are from Philadelphia. When the canal shall have been completed to the lake, the expense will be somewhat less."

*ELEPHANT TEETH.*—The Cincinnati Independent Press, of the 9th inst. says, that "two teeth of an elephant have lately been dug up by the workmen on the canal, near Mill-Creek bridge, which must have been buried for centuries, as they were found *eight feet below the surface of the earth*, and a beech tree was growing over the spot, measuring *three feet in diameter*! One of the teeth is "five inches across the surface or face" of it.

*October.*—OHIO TOBACCO.—About two thousand three hundred hogsheads of Ohio tobacco of the last year's crop, have been inspected at the warehouses in Baltimore. It has generally been very handsomely handled and packed, and has come to market in good order—a little of it in too high condition. It has brought, generally, from seven to ten dollars per hundred.

*December.*—Since the establishment of the penitentiary in Ohio, 548 persons have been imprisoned for the following crimes: Murder in the second degree, 18—rape, 17—assault and battery with intent to kill, 21—maiming, 9—manslaughter, 12—arson, 12—incest, 1—bigamy, 3—polygamy, 2—robbing United States mail, 2—perjury, 9—forgery, 31—burglary, 58—larceny, 149—horse stealing, 123—counterfeiting, 77—robbing, 3—challenging to fight a duel, 1. The present number confined, is 160. The whole cost of the establishment amounts to \$212,748.

The Ohio canals are making very satisfactory progress. Thus far all the expenses and contracts have been considerably short of the original estimates; and it is probable that they will be completed in less than the estimated time.

*January, 1827.*—The whole revenue of Ohio for the last year, by taxation, amounted to \$366,915.

We furnish the following aggregate of the objects of taxation:

Acres of taxable land in the state,	13,763,574
Valuation, including buildings worth \$200,	\$35,217,035
Value of town lots, including buildings as above,	4,082,114
131,956 horses, valued at	4,878,240
252,514 head cattle, valued at	2,028,352
Merchants' capital,	2,162,118
Amount of state tax,	\$108,669
County do.	187,583
Road do.	31,848
Township do.	22,231
School do.	19,613

Total, \$366,915

Among the arrivals at Cincinnati in the last month, from Pittsburg, Pennsylvania, was the steam boat Merchant, having in tow her safety barge, with 95 passengers. This is the first attempt of the kind, and it seems to have succeeded admirably. The barge has 52 births and three cabins. The steam boat has two cabins. The Merchant draws 26 inches, and the barge 20 inches.

*February.*—The legislature of Ohio, in joint meeting, balloted 15 times, and then adjourned without making choice of a senator of the United States—Mr. Ruggles' period of service expiring on the 4th of March next. The last ballot stood thus: For Benjamin Ruggles, 41; William W. Irvin, 32; Willis Silliman, 32; scattering, 3.

*May.*—**ROBBERY.**—The treasury of Ohio, (at Columbus,) was robbed of its contents on the night of the 7th inst. amounting to \$15,000. One of the robbers (William H. Price) has been detected, and about 12,000 dollars of the money recovered, and two other persons suspected were taken in custody. The residue of the sum stolen was subsequently recovered.

*July.*—On the 4th inst. the double celebration of the anniversary of American independence, and the completion of an important portion of the Ohio canal, took place.

Governor Trimble, with Messrs. Brown, Buckingham and Perkins, commissioners of the canal fund, and

Messrs. Miner, Tippan, Beaseley, Williams and Kelley, canal commissioners, arrived at Cleveland, in the canal boat "State of Ohio," having left Portage summit, thirty-eight miles distant, on the preceding day, and descended nearly 400 feet by the aid of forty-two locks. Another boat followed, and the descending boats were met by an ascending one from Cleveland, filled with a delighted people, to greet their distinguished visitors. An oration was delivered, and a feast and ball ensued.

The first freight boat arrived at Cleveland on the 4th, laden with flour and whiskey.

*July 20.*—Eighty four miles of the Ohio canal are now in readiness for navigation; and a number of boats were on their way about ten days since, from the interior of Ohio, to Buffalo, with rich freights destined for New-York and Baltimore.

**INDIANS.**—The head chief of the Shawanese Indians, being at a tavern at Piqua, under the excitement of liquor, quarrelled with several persons, and stabbed them; among others the editor of the Piqua paper, who was wounded in nine places.

The next day, on Perry's arrival at Wapahkonnetta, the Shawanese were holding a council, at which he should have been present; and which had adjourned from the day previous, in consequence of his absence. *They had assembled for the purpose of prohibiting and abjuring the use of spiritous liquors among their nation from and after that day;* and when they had been made acquainted with the effects this same curse had on their chief, and the disgraceful actions he had committed while under its influence, a general feeling and expression of sorrow ensued. The council immediately sent delegates to Piqua, to hold a talk with the citizens. Their orator, Wee-will-a-pee, then expressed the wishes of his people in the following characteristic speech:

"We have been deputed by our nation, to wait on the citizens of Piqua, and express to them, and particularly

to those who were injured, our deep sorrow for the accident which has lately happened.

"We know *strong* drink was made for white men, as they know how to use it; but it makes Indians crazy; we therefore held an assembly of all our people to abolish the use of it among us.

"It was the wish of our people that our chief, Perry, should be present at our late council; he did not come, and we were disappointed.

"Perry arrived before the council broke up, and what he told us made us very sorry.

"We always wish to live in friendship with our white brethren, and especially with the people of this town, as we have so much communication and trade with them.

"We are very willing to pay all expenses, on condition that the white people will not put the law in force against our chief."

The speech was answered by several citizens, assuring them of a reciprocation of a friendly feeling, and advising them to discontinue the use of whiskey; and that the outrage of this man should be forgiven, in consideration of his repentance, and the peaceable disposition, and assurances of regret expressed by the deputation in behalf of their nation.

**August.**—On the 18th, the Ohio river was two feet above low water mark. The average height of the river had been from the 25th of February to the 12th of August, 1826, inclusive, 7 feet, 5 inches; during the same time this year, it was 7 feet, 2 inches. The average height from the 22d of April to the 12th of August, 1826, was 3 feet, 1 inch. During the same time this year, it was 3 feet, 3 inches.

#### 1826.] INDIANA.

**November.**—Numerous emigrants are pouring into Indiana, from Pennsylvania, Virginia, Ohio, and Kentucky. Many are of the respectable classes, with large droves of cattle and flocks of sheep, &c. In 1800, India-

na had less than 5,000 inhabitants; the present amount is not short of 200,000.

The establishment of Robert Owen, at New Harmony, is spoken of as in a flourishing condition; but unable to provide for all those who apply to become members of the society. Its present condition is thus described: The society has apparently assumed a more settled form; the lectures are better attended, and temperance and industry are enforced by precept and example. All sorts of dissipation are discouraged, but amusements abound. Swearing, and the use of *hard* words, seem as if abolished among the older members of the community.

**January, 1817.**—Mr. Noble has been re-elected a senator of the United States from Indiana, for six years, from the 4th of March next. There were three candidates offered, and four ballots taken in the joint meeting of the legislature, as follows:

Ballot	1st.	2d.	3d.	4th.
Mr Noble,	32	35	38	40
Mr Blackford,	24	24	26	28
Mr Jennings,	22	20	15	10

**April.**—The people of New Harmony have divided themselves into three communities, independent of each other and of Mr. Owen; and, in these new formations, the experiment will be continued for the present. The town of New Harmony is very full of people, and comfortable accommodations for additional colonists cannot be furnished. The elements of which the society is composed seem to be peculiarly discordant.

INDIANAPOLIS, in the state of Indiana, is situated in lat. 39° 45', in lon. 87° 5' W. from Washington, about 8 miles south, and 2 east of the centre of the state. It was laid out in the summer of 1821, and the lots sold the 10th of October of that year. At that time the whole population, in what was called the new purchase, embracing all the territory within 50 miles of this place, was returned by the marshal at about 1,300. The population within the same bounds, must now amount to upwards of 55,000, and that of this town

to about 1,000 souls. There are now 25 brick, 80 frame, and about 80 hewn log houses and cabins in town. The public buildings are, a court house, 60 feet by 45, a jail, and meeting houses belonging to the Presbyterian, Baptist, and Methodist societies.

*June.*—A horrid murder was committed in the vicinity of Brookville, by John Young, for whose daughter John Points had conceived an attachment. Young was a man of standing, and was opposed to Points, and refused his consent to their marriage. The lovers, however, had entered into a matrimonial engagement; and were on their way on a moonlight evening to be married, accompanied by several friends, when they were waylaid by Young, who shot Points through the head in the midst of his laughing companions, and while his intended bride was mounted behind him on the same horse. On the fall of his victim, Young dragged his daughter to his dwelling, and on the following day delivered himself up to the proper authority, who *admitted him to bail*, on the plea that he had demanded his daughter of Points before he shot him. The daughter was aged 18 years, and marriageable by the laws of the state without the consent of parents.

*July.*—The following interesting sketch of the natural and statistical history of this state, is taken from the *Indiana Journal*:

The state of Indiana contains 37,000 square miles, and 23,620,000 acres, ranking with the other states, as the tenth in size and the fifteenth in population. Its greatest length from north to south, in its west line, is 281 miles, and its length on the east line, is 186 miles, averaging 256 miles. Its breadth from east to west is 144 miles. The state is divided into 58 counties, of which, all but two have been organized. The population in 1810 was 24,520; in 1820, 117,368; and at pre-

sent from the returns of taxable polls, must amount to at least 260,000. The militia in 1821 was returned at 14,990. It now consists of 7 divisions, 16 brigades, and 61 regiments.

1826.] ILLINOIS.

*September.*—Ninian Edwards has been elected governor of Illinois. The votes were: for governor Edwards, 6,299; for Mr. Sloo, who opposed him, 5,941; for Mr. Donean, for congress, 6,321; for Mr. Cook, 5,630; and for Mr. Turney, 767.

1827.]—Lead ore has been discovered on the Bounty Tract, near the Mississippi river, in Adams county, (Ill.) It is said to be equal in quality to any found at Fevre river, and the place from which it was taken, to have the appearance of containing it in great abundance. These mines are about to be worked.

1826.] MISSOURI.

*September.*—Thomas H. Benton has been re-elected to the senate of the United States, for six years from the 4th of March, 1827.

Mr. Edward Bates was elected to congress over Mr. Scott. Both of the candidates were friendly to the administration. The respective votes were, for Mr. Bates, 6,633; for Mr. Scott, 4,155.

*November.*—Emigrations to the state of Missouri are numerous, and are giving to it a valuable accession of inhabitants.

The debt of the state is estimated at \$149,237 59 cents, and the available funds at \$18,946 96 cents. There is an amount of "debt due from the several loan offices," equal to \$72,799, and 38 cents; of which the available value greatly depends on the decision of a case now pending in the supreme court of the United States, as to the right of the state to recover from the borrowers of the loan office certificates their par value in specie.

# EXECUTIVE OFFICERS

## OF THE UNITED STATES OF AMERICA.

	<i>Nativity.</i>	<i>Salary.</i>
John Quincy Adams, President,	Mass.	\$25,000
John C. Calhoun, Vice President,	S. C.	5,000
Henry Clay, Secretary of State,	Va.	6,000
Richard Rush, Secretary of Treasury,	Penn.	6,000
James Barbour, Secretary of War,	Va.	6,000
Samuel L. Southard, Secretary of Navy,	N. J.	6,000
William Wirt, Attorney General,	Md.	3,500
John M'Lean, Post Master General,	N. J.	6,000

## JUDICIARY.

	<i>Nativity.</i>	<i>Salary.</i>		<i>Nativity.</i>	<i>Salary.</i>
John Marshall, Chief Justice,	Va.	5,000	Joseph Story,	Mass.	4,500
Bushrod Washirgton,	Va.	4,500	Smith Thompson,	N. Y.	4,500
William Johnson,	S. C.	4,500	Robert Trimble,	Ken.	4,500
Gabriel Duvall,	Md.	4,500			

## DIPLOMATIC CORPS.

### To GREAT BRITAIN and IRELAND.

	<i>Nativity.</i>	<i>Salary.</i>
Albert Gallatin, Envoy, &c.	Geneva,	9,000
William B. Lawrence,	N. Y.	2,000

### FRANCE.

James Brown, Envoy, &c.	Va.	9,000
Daniel Sheldon, Secretary, &c.	Conn.	2,000

### RUSSIA.

Henry Middleton, Envoy, &c.	S. C.	9,000
Charles Pinckney, Secretary, &c.	Md.	2,000

### SPAIN.

Alexander H. Everett, Envoy, &c.	Mass.	9,000
John A. Smith, Secretary, &c.	N. Y.	2,000

### MEXICO.

Joel R. Poinsett, Envoy, &c.	S. C.	9,000
John Mason, jr. Secretary, &c.	Md.	2,000

CHILI.		
Heman Allen, Envoy, &c.	Vt.	9,000
Samuel Larned, Secretary, &c.	R. I.	2,000
NETHERLANDS.		
Christopher Hughes, Charge d'Affaires,	Md.	4,500
PORTUGAL.		
Thomas L. Bent, Charge d'Affaires,	Md.	4,500
DENMARK.		
Henry Wheaton, Charge d'Affaires,	R. I.	4,500
SWEDEN.		
John J. Appleton, Charge d'Affaires,	Mass.	4,500
COLOMBIA.		
Beaufort T. Watts, Charge d'Affaires,	S. C.	4,500
BRAZIL.		
Condy Raguet, Charge d'Affaires,	Penn.	4,500
BUENOS AYRES.		
John M. Forbes, Charge d'Affaires,	Florida.	4,500
CENTRAL AMERICA.		
William B. Rochester, Charge d'Affaires,	N. Y.	4,500
PERU.		
James Cooley, Charge d'Affaires,		1,500

## ARMY PROMOTIONS.

Washington, October 26th, 1826.

*Third Regiment of Artillery.*

1st lieutenant THOMAS CHILDS, to be captain 1st October, 1826, vice DE RUSSEY, resigned.

*Fourth Regiment of Infantry.*

Brevet major WM. S. FOSTER, captain 6th infantry, to be major 7th July, 1826, vice Donoho, deceased.

*Sixth Regiment of Infantry.*

1st lieutenant HENRY SMITH, to be captain 7th July, 1826, vice Foster, promoted.

APPOINTMENTS.

L. G. DE RUSSEY, to be paymaster, 21st September, 1826.

JOHN B. SCOTT, 2d lieutenant, 4th artillery, to be assistant commissary of subsistence, 14th July, 1826.

JAMES A. CHAMBERS, 2d lieutenant, 2d artillery, to be assistant commissary of subsistence, 14th July, 1826.

J. R. STEPHENSON, 1st lieutenant, 7th infantry, to be assistant commissary of subsistence, 31st August, 1826.

THOMAS JOHNSON, 1st lieutenant, 7th infantry, to be assistant commissary of subsistence, 13th October, 1826.

CHARLES DIMMOCK, 2d lieutenant of the 1st artillery, to be assistant com-

missary of subsistence, 26th October, 1826.

J. P. C. MACMAHON, assistant surgeon, to be surgeon, 5th August, 1826.

ROBERT ARCHER, late surgeon, to be assistant surgeon, 5th August, 1826.

Washington, March 8, 1827.

*Second Regiment of Artillery.*

Brevet lieutenant-colonel ROGER JONES, captain 3d artillery, to be major, 17th February, 1827, vice Hindman, deceased.

Brevet captain ELIJAH LYON, 1st lieutenant, to be captain, 29th February, 1827, vice Nourse, resigned.

*Third Regiment of Artillery.*

1st lieutenant CHARLES M. THRUSTON, to be captain 17th February, 1827, vice Jones, promoted.

1st lieutenant THOMAS J. BAIRD, to be captain 23rd February, 1827, vice Burd, deceased.

BREVET PROMOTIONS.

*Brevet Brigadier-Generals.*

JOHN E. WOOD, colonel and inspector general, to be brigadier-general by brevet, from 29th of April, 1826.

GEORGE GIBSON, colonel and commis-



sary general of subsistence, to be brigadier-general by brevet, from 29th April, 1826.

*Brevet Lieutenant Colonels.*

WILLIAM LINNARD, quarter master, to be lieutenant colonel by brevet, from 15th June, 1825.

JAMES KEARNEY, topographical engineer, to be lieutenant colonel by brevet, from 29th April, 1826.

STEPHEN H. LONG, topographical engineer, to be lieutenant colonel by brevet, from 29th April, 1826.

P. H. PARRAULT, topographical engineer, to be lieutenant colonel by brevet, from 17th February, 1827.

*Brevet Majors.*

MIL0 MASON, captain 1st regiment of artillery, 17th May, 1816, to be major by brevet, to take rank from May 17th, 1826.

GEORGE BIRCH, captain 7th regiment of infantry, 31st August, 1816, to be major by brevet, to take rank from 31st August, 1826.

HENRY WHITING, captain 1st regiment of artillery, 3d March, 1817, to be major by brevet, to take rank from 3d March, 1827.

*Brevet Captain.*

ELIJAH LYON, 1st lieutenant 2d regiment of artillery, 1st January, 1815, to be captain by brevet, to take rank from 1st January, 1827.

CAPTAIN LYON, of the 2d artillery, is arranged to E. company.

CAPTAIN THURSTON, of the 3d artillery, to C. company.

CAPTAIN BAIRD, of the 3d artillery, to D. company.

*Assistant Commissaries.*

1st lieutenant REUBEN HOLMES, of the 6th infantry, to be assistant commissary of subsistence, 19th January, 1827.

1st lieutenant W. S. NEWTON, of the 3d artillery, to be assistant commissary of subsistence, 27th February, 1827.

*Transfers.*

SAMUEL SPOTTS, captain of the 3d ar-

tillery, transferred to the 4th artillery.

W. L. MCCLINTOCK, captain of the 4th artillery, transferred to the 3d artillery.

JAMES ENGLE, 2d lieutenant of the 4th infantry, transferred to the 5th infantry.

Washington, July 14th, 1827.

*Third Regiment of Infantry.*

1st lieutenant, ANDREW LEWIS, to be captain 6th June, 1827, vice Brooks, resigned.

*Sixth Regiment of Infantry.*

1st lieutenant N. J. CRUGER, to be captain 11th February, 1827, vice Armstrong, deceased.

1st lieutenant, THOMAS NOEL, to be captain 1st May, 1827, vice Shaler, resigned.

*APPOINTMENTS.*

JOHN H. WINDER, late of the artillery, and a graduate of West Point, to be 2d lieutenant 1st regiment of artillery, 2d April, 1827.

JOHN HILLS, late of the artillery, and a graduate of West Point, to be second lieutenant 6th regiment of infantry, 25th June, 1827.

*Assistant Commissaries.*

1st lieutenant F. N. BARBARIN, of the 3d artillery, to be assistant commissary of subsistence, 16th May, 1827.

1st lieutenant BENJAMIN WALKER, of the 3d infantry, to be assistant commissary of subsistence, 26th March, 1827.

1st lieutenant L. N. MORRIS, of the 3d infantry, to be assistant commissary of subsistence, 26th March, 1827.

1st lieutenant ALEXANDER H. MORTON, of the 7th infantry, to be assistant commissary of subsistence, 26th June, 1827.

2d lieutenant G. W. LONG, of the 4th artillery, to be assistant commissary of subsistence, 8th June, 1827.

1st lieutenant E. V. SUMNER, of the 2d infantry, to be assistant commissary of subsistence, 15th June, 1827.

## NAVY PROMOTIONS.

1827.] CAPTAINS.  
Samuel Woodhouse, 3d March, 1827;  
Joseph J. Nicholson, do do.  
MASTER COMMANDANTS.  
Charles W. Skinner, 3d March, 1827:

Otho Norris, do do; John T. Newton, do do; Joseph Smith, do do.  
LIEUTENANTS.  
To be Lieutenants in the Navy.  
Passed midshipmen.—John W. West,

T. O. Selfridge, Reuben R. Pinkham, Henry Eagle, jr. Andrew K. Long, Gerahom J. Van Brunt, Samuel B. Cocke, George S. Blake, Zachariah F. Johnston, Samuel Barron, George Izard, jr.; Robert W. Jones, Alexander G. Gordon, Albert G. Slaughter, Stern Humphreys, John Marshall, Thomas M'Kean Buchanan, Theodorus Bailey, jr.; Alexander M. Mull.

*To be Lieutenant Colonels by brevet.*  
Majors—R. D. Wainwright, Samuel Miller, John M. Gamble, of the marine corps, 3d March, 1827.

SURGEON.

James Page, April 23d, 1827.

PURSEERS.

Dudley Walker, August 21st, 1827;  
M'Kean Buchanan, do do; Henry Elting, Nov. 27th, 1827.

## GOVERNORS OF THE STATES FOR 1826.

Maine,	Enoch Lincoln,	Georgia,	George M. Troup,
New-Hampshire,	Benjamin Pierce,	Alabama,	John Murphy,
Massachusetts,	Levi Lincoln,	Mississippi,	David Holmes,
Rhode-Island,	James Fenner,	Louisiana,	Henry Johnson,
Connecticut,	Gideon Tomlinson,	Tennessee,	William Carroll,
Vermont,	Ezra Butler,	Kentucky,	Joseph Desha,
New-York,	De Witt Clinton,	Ohio,	Allen Trimble,
New-Jersey,	Isaac H. Williamson,	Indiana,	James B. Ray,
Pennsylvania,	John Andrew Shulze,	Illinois,	Ninian Edwards,
Delaware,	Charles Polk,	Missouri,	Alexander M'Nair.
Maryland,	Joseph Kent,	TERRITORIES.	
Virginia,	William B. Giles,	Michigan,	Lewis Cass,
North Carolina,	Hutchins G. Burton,	Arkansas,	George Izard,
South Carolina,	John Taylor,	Florida,	William P. Duval.

## REPORT ON THE SINKING FUND.

The sums disbursed from the treasury, during the year 1825, on account of the principal and interest of the public debt, amounted, as per the last annual report, to \$12,101,864 78

And have been accounted for in the following manner, viz :

There was applied for the payment of a sum short provided on account of the public debt, prior to the 1st January, 1825.

38,395 78

And there was applied, during the year 1825, towards the payment of the principal and interest of the public debt, as ascertained by accounts rendered to this department, \$12,124,085 97

Viz:

In the redemption of treasury note six per cent. stock,	1,479,374 82
In the redemption of 7 per cent. stock,	2,113 92
In the redemption of exchange of 6 per cent. stock of 1812,	56,539 30
In the redemption of 6 per cent. stock of 1812,	6,187,006 84
In the payment of Mississippi certificates,	1,524 02
In the payment of treasury notes,	2,001 49
And on payment of certain parts of the domestic debt,	15 31

7,728,575 70.

The interest which accrued for the year 1825, amounted to

4,395,498 59

And there was paid for premium on 7 per cent. stock,

11 08

Of this sum, there was short provided, consisting of  
unclaimed dividends not applied for by the pro-  
prietors,

110,616 97

12,013,469 00

12,101,864 78

That, during the year 1826, the following disbursements were made by the treasury,  
on account of the principal and interest of the public debt, viz :

On account of the interest of the debt,	3,971,842 95
the redemption of the 6 per cent. stock of 1813, •	7,070,730 91
the redemption of 7 per cent. stock,	25 00
In payment of treasury notes,	2,389 58
Mississippi certificates,	450 00
certain parts of domestic debt,	27 86

Making together, \$11,045,466 30

Which disbursements were made from the appropriation of ten millions of dollars for the year 1826, and from the unexpended balance of the appropriations at the commencement of that year, and will be accounted for in the next annual report, in conformity to the accounts which shall then have been rendered to this department. In the mean time, the manner in which the said sum has been applied, is estimated as follows :

There is estimated to have been applied to the deficiency, at the end  
of the year 1825,

110,616 97

In the redemption of the principal of the public debt,

7,073,623 35

And on account of the interest of the debt, viz :

The interest for the year 1826, is estimated at 3,940,361 55

Of this sum there is estimated to have been short  
provided,

79,135 57

3,861,225 98

\$11,045,466 30

## FINANCES OF MEXICO.

### *Report of the Secretary of the Treasury, to the Mexican Congress.*

The progressive increase of the revenue for the last four years, exclusive of the foreign loans, appears as follows, viz :

For 1823, \$5,409,722—1824, 8,462,328—1825, 13,164,644—1826, 14,159,349.

From September 1, 1825 to June 30, 1826, (10 months,) the receipts amounted to 13,848,257 dollars, including the foreign loan, 2,458,559 dollars. The customs in the ports yielded 6,414,383; tobacco, 1,316,127 dollars; the states contributed 1,368,452 dollars; the duties of Averia, 529,850 dollars. The expenditures, during the same period, amounted to 12,189,725 dollars, leaving a balance in the treasury, on the 30th June, 1826, of 1,658,532 dollars. The expenditures of the war department were 6,955,078 dollars, and the navy cost 900,253 dollars. Of the treasury department, 3,673,043 dollars, which includes a remittance in March last to England, of 283,800 dollars, for the payment of the dividends on the loans. Since the last of June, 800,000 dollars have been remitted for the same purpose.

For the year ending June 30, 1828, the net revenue was

\$13,667,637

And the expenditures of department of state,

\$264,082

Department of justice, and ecclesiastical affairs,

226,098

Treasury department,

5,085,685

Army and navy departments, estimated at ten mil-  
lions, but reduced to

7,787,233

\$13,363,098

Balance in treasury, June 30, 1828,

304,538

From September, of 1825, to June, 1826, (10 months), the coinage of the republic, in the five mints of Mexico, Guanajuato, Tacatecas, Guadalajara, and Durango, 7,463,300 dollars.

The entire coinage of Mexico, from the year 1733, when the mint of the capital, (which, from 1535, to 1732, was in charge of private individuals, who left no records), was conducted on account of the government, to June 30, 1826, amounts to *one thousand four hundred and thirty-five millions, six hundred and fifty-eight thousand six hundred and eleven dollars.*

## COLOMBIA.

## Estimate of expenses, for 1827 :

Foreign department,	\$69,369 7½
Home ditto	526,886 4½
War ditto	4,307,797 4
Marine ditto	912,721 0
Finance ditto	579,047 0½
Interest of debt,	1,800,000 0
One per cent. towards the fund for liquidating the said debt,	300,000 0
	<u>\$8,495,822 0½</u>

The difference in favour of the republic, in the present year, compared with the preceding, amounts to the sum of \$6,991,889, 3 reals. Demonstrated thus :

Estimate for 1826,	\$15,487,719 3½
Ditto 1827,	8,495,822 0½
	<u>\$6,991,897</u>

## BRITISH REVENUE.

Abstract of the net produce of the revenue of Great Britain, in the years and quarters ended 10th October, 1825 and 1826, showing the increase or decrease on each head thereof :

	Years ended 10th Oct.			
	1825.	1826.	Increase.	Decrease.
Customs,	£14,306,152	15,436,127	1,129,975	
Excise,	21,620,714	17,823,827		3,796,887
Stamps,	6,997,016	6,411,242		585,774
Post office,	1,501,000	1,499,000		2,000
Taxes,	4,976,163	4,703,518		272,645
Miscellaneous,	362,741	633,962	271,221	
	<u>49,763,786</u>	<u>46,507,876</u>	<u>1,401,196</u>	<u>4,657,306</u>
Deduct increase,				1,401,196
				<u>3,256,110</u>

\* In the event of its being necessary to equip and arm all the vessels of war belonging to the republic, the estimate for the marine department will be increased to 2,970,492 dollars, 6 reals.

	Quarters ended Oct. 10			
	1825.	1826.	Increase.	Decrease.
Customs,	£5,275,455	4,579,640		698,815
Excise,	5,154,858	5,226,723	71,865	
Stamps,	1,823,519	1,584,563		238,956
Post office,	379,000	360,000		19,000
Taxes,	474,433	486,624	12,191	
Miscellaneous,	76,377	59,042		17,335
	13,186,642	12,296,592	84,056	974,106
	Deduct increase,			84,056
	Decrease on the quarter,			890,050

### FRENCH FINANCES.

Comparative statement of the produce of the revenue, for the first nine months of 1826, with the produce of the revenue realized during the same nine months for 1825. At the same time, it appears from another table, that the estimates for 1826 were made out from the receipts of the revenue in 1824, and the increase during the present year, compared with 1824, is 23,578,000*fr.*

	1826.	1825.
From direct taxes,		
Woods and } Sale of wood,	25,950,000	22,690,000
forests. } Accessories,	4,466,000	4,032,000
Stamp duties,	132,909,000	126,753,000
Revenue and sale of domains,	1,837,000	2,344,300
Customs, navigation dues, &c.	78,359,000	70,828,000
Indirect } Levied at the pans		
taxes } on the coast,	35,503,000	36,973,000
on salt. } In the interior,	4,585,000	4,791,000
On liquors,	79,886,000	77,709,000
Various indirect taxes, stage coaches, &c.	16,927,000	16,470,000
Sale of tobacco,	49,686,000	49,758,000
Sale of powder,	2,966,000	2,877,000
Post office, 5 per cent. on sending money,	19,406,000	19,192,000
Mails and packets,	1,212,000	1,253,000
Lottery,	8,355,000	12,697,000
Miscellaneous,	4,877,000	3,551,000
	£470,484,000	£453,929,300
	or \$94,100,000	\$90,300,000

The amount of the debt of France, constituting the capital of the *rentes*, as they are called, or inscriptions on the great book, is, we believe, about four hundred millions of dollars.

### SUMMARY STATEMENT

*Of the Exports of the Growth, Produce, and Manufacture of the United States, during the year ending September 30th, 1826.*

Produce of the fisheries,	\$1,473,388
Furs, skins, ginseng, oak bark, naval stores, pot and pearl ashes,	1,939,556
Lumber, staves, and shingles,	2,011,694
Beef, tallow, hides, butter and cheese, pork, and live animals,	3,098,800
Vegetable food and grain, &c.	7,527,257
Tobacco,	5,347,308

# TONNAGE OF THE UNITED STATES.

509

Cotton,	25,025,214
Indigo, flax seed, hops, and brown sugar.	254,462
Domestic manufactures,	5,246,878
Specie,	605,85
Manufactured articles not enumerated,	248,252
Raw produce not enumerated,	277,086

Total \$53,055,710

<i>Exports of Foreign Growth, Produce, or Manufactures, during the same year.</i>	
Merchandise free of duty,	5,135,108
do paying duty ad valorem,	11,276,536
do paying specific duty,	8,127,968

Total \$24,539,612

## **ABSTRACT** of the Tonnage of the Shipping of the several Districts of the United States, on the last day of December, 1825.

DISTRICTS.	Registered tonnage.	Enrolled & Licensed tonnage.	Total tonnage of each district.	DISTRICTS.	Registered tonnage.	Enrolled & Licensed tonnage.	Total tonnage of each district.
Tons and 35ths.				Tons and 35ths.			
Passamaquoddy, Me.	5,063 27	3,127 38	8,192 78	Wilmington, Del.	1,683 89	11,077 08	12,761 00
Machias - - -	378 32	3,376 03	4,524 37	Baltimore, Md. -	58,853 84	33,196 38	92,050 27
Frenchman's Bay	3,300 02	7,399 35	10,700 02	Oxford - - -	- - -	16,907 14	16,907 14
Penobscot - - -	4,121 91	16,073 03	20,194 94	Vienna - - -	427 56	22,417 83	22,845 44
Belfast - - -	2,388 46	6,943 51	9,542 02	Snowhill - - -	217 28	7,035 47	7,253 40
Waldoborough -	2,887 30	19,275 75	22,163 10	Annapolis - - -	- - -	3,480 16	3,480 16
Wiscasset - - -	2,569 24	8,845 26	11,564 50	St Mary's - - -	- - -	4,174 11	4,174 11
Bath - - -	16,898 13	10,473 92	27,372 10	Georgetown, D. C.	1,569 80	3,794 69	5,364 54
Portland - - -	32,246 84	13,116 38	45,963 27	Alexandria - - -	4,873 27	9,091 84	13,975 16
Saco - - -	2,308 66	2,490 11	4,798 77	Norfolk, Va. - -	5,538 99	15,872 37	21,411 24
Kennebunk - - -	7,725 81	955 17	8,681 03	Petersburg - - -	783 52	4,457 46	5,241 09
York - - -	167 08	925 48	1,093 21	Richmond - - -	2,698 00	5,604 00	8,302 69
Portsmouth, N. H.	18,184 44	6,096 24	24,280 68	Yorktown - - -	- - -	2,515 48	2,515 48
Newburyport, Mass.	8,309 02	12,048 54	20,357 56	East River - - -	296 49	2,090 10	2,386 59
Ipswich - - -	69 60	1,276 04	1,345 04	Tappahannock -	1,194 65	10,108 36	11,303 06
Gloucester - - -	3,389 76	9,751 17	13,140 93	Folly Landing - -	58 13	3,325 54	3,383 67
Salem - - -	30,154 90	11,266 27	41,421 22	Cherry Stone - -	- - -	2,094 00	2,094 00
Marblehead - -	2,565 35	8,465 08	11,030 43	Wilmington, N. C.	8,246 64	1,225 56	9,472 25
Boston - - -	103,741 27	49,127 51	152,868 78	Norbern - - -	3,822 73	2,674 38	6,497 16
Plymouth - - -	9,325 64	13,532 47	22,858 16	Washington - - -	1,461 61	2,279 32	3,740 93
Dighton - - -	458 25	3,370 30	3,828 55	Edenton - - -	1,301 41	6,580 34	7,881 75
New-Bedford -	24,024 10	12,121 08	36,145 18	Camden - - -	4,833 40	4,572 19	9,405 68
Barnstable - -	883 05	20,369 78	21,252 83	Beaufort - - -	48 77	1,163 84	1,212 66
Edgartown - -	1,655 10	778 89	2,434 04	Plymouth - - -	156 89	654 42	811 36
Nantucket - - -	20,585 65	5,170 86	25,756 56	Cracoke - - -	169 31	1,249 16	1,418 47
Providence, R. I.	16,349 94	4,366 34	20,716 33	Charleston, S. C.	10,712 07	16,343 84	27,055 91
Bristol - - -	6,500 89	1,842 64	8,343 58	Georgetown - -	- - -	300 48	300 48
Newport - - -	6,440 64	3,438 11	9,878 75	Beaufort - - -	- - -	3,835 75	7,454 76
Middletown, Ct.	6,424 34	10,173 41	16,597 75	Savannah, Geo. -	3,619 01	69 30	69 30
New-London - -	2,947 25	7,701 84	11,549 18	Sunbury - - -	- - -	- - -	- - -
New-Haven - -	5,077 78	7,259 11	12,336 89	Hardwick - - -	- - -	- - -	- - -
Fairfield - - -	275 40	8,865 88	9,141 31	Brunswick - - -	698 14	1,119 29	1,817 43
Vermont - - -	- - -	- - -	- - -	St. Mary's - - -	512 23	756 80	1,269 08
Champlain, N. Y.	1,048 30	- - -	1,048 30	Miami, Ohio - -	- - -	546 48	546 48
Sackett's Harbour	347 07	1,003 11	1,350 18	Cuyahoga - - -	- - -	81 65	144 51
Oswego - - -	73 60	752 73	826 38	Sanluisky - - -	62 81	371 37	371 37
Niagara - - -	- - -	- - -	- - -	Detroit, Mich. -	- - -	- - -	- - -
Genesee - - -	837 59	817 40	1,655 04	Mi. blimackinack	- - -	- - -	- - -
Oswegatchee - -	- - -	1,085 07	1,085 07	Mobile, Ala. - -	821 57	5,497 31	6,318 88
Buffalo Creek -	- - -	4,375 84	4,375 84	Blakely - - -	- - -	525 58	525 58
Sag Harbour - -	2,214 54	6,490 43	8,704 97	Pearl River - - -	58 47	17,070 02	17,128 49
New-York - - -	156,728 14	147,756 08	304,484 22	New-Orleans - -	11,771 17	94 90	121 09
Cape Vincent -	- - -	- - -	- - -	Teche - - -	26 14	- - -	- - -
Port Amboy, N. J.	1,045 21	10,648 73	11,693 94	Pennacola - - -	- - -	313 91	313 91
Bridgeport - - -	333 65	15,705 04	16,038 69	St. Augustine - -	216 53	- - -	- - -
Burlington - -	- - -	2,039 25	2,039 25	St. Marks - - -	- - -	- - -	- - -
Little Egg Harbour	- - -	3,358 81	3,358 81	Key West - - -	- - -	- - -	- - -
Great Egg Harbour	- - -	7,391 94	7,391 94	- - -	- - -	- - -	- - -
Philadelphia, Penn.	65,429 50	8,379 00	73,807 50	Total,	700,787 08	722,323 69	1,423,111 77
Pesque Isle - -	160 04	195 93	355 97				

**STATISTICAL VIEW** of the COMMERCE of the UNITED STATES, exhibiting the value of Imports from, and the value of Exports to, each Foreign Country; also, the Tonnage of American and Foreign vessels, arriving from and departing to each Foreign Country, and the Tonnage belonging to each Foreign Power, employed in the Commerce of the United States, during the year ending on the 30th day of September, 1826.

COUNTRIES.	COMMERCE.			NAVIGATION.			
	Value of Imports.	Value of Domestic Exports.	Value of Foreign Exports.	American Tonnage.		Foreign Tonnage.	Foreign tonnage entered into the United States, belonging to each Foreign Power.
				Entered into the U. States.	Dep't'g from the U. S.	Entered into the United States.	
Russia	2,617,166	11,044	163,604	17,342	1,386		
Prussia	107,615	15,750	3,431	394	313		
Sweden and Norway	1,128,236	126,034	99,468	13,945	2,658	207	207
Swedish West Indies	163,946	130,573	23,264	4,924	4,437	1,974	1,164
Denmark	49,264	100,592	945,288	636	2,681		
Danish West Indies	2,067,900	1,391,004	676,001	37,347	43,584	1,435	804
Danish East Indies							
Netherlands	1,106,408	1,970,190	1,899,857	26,902	32,946		
Dutch West Indies	554,217	434,125	57,425	13,591	12,733	1,136	1,867
Dutch East Indies	613,556	57,506	374,957	4,336	3,282	611	
England, Man, and Berwick	24,262,303	19,065,155	1,569,023	172,588	147,455		
Scotland	1,096,779	572,804	2,982	5,857	2,850	39,375	
Ireland	672,904	775,137	6,684	13,637	14,436	6,251	
Gibraltar	677,506	692,368	1,055,525	9,368	24,148	4,370	
British East Indies	2,510,606	24,226	418,042	5,981	2,020		
Mauritius	46,559	21,154	22,000	216	352		
Cape of Good Hope	2,204,412	2,078,671	6,433	240	432		
British West Indies	3,635	9,894	31,931	97,231	99,732	7,927	
Newfoundland and British Fisheries	650,315	2,564,165	246	484	319	8,120	
British North American Colonies	23,407	34,378	24,384	74,346	76,191	356	
Other British Colonies	2,818,545	978,313	1,137,384	151	536	10,108	
The Hansa Towns and ports of Germany	7,657,368	9,073,254	1,316,178	14,537	13,510	4,859	
French European ports on the Atlantic	892,152	273,675	483,677	51,451	76,478	7,814	5,566
French European ports on the Mediterranean	973,270	904,115	52,039	9,426	10,960	11,270	15,978
French West Indies				37,724	43,947	5,442	





**STATEMENT** of the COMMERCE of each STATE and TERRITORY, commencing on the 1st day of October, 1825, and ending on the 30th day of September, 1826.

STATES, &c.	Value of Merchandise imported.	Value of Merchandise Exported.		Total value of Domestic and Foreign Produce.	Quantity of American Tonnage.		Quantity of Foreign Tonnage.	
		Domestic Produce.	Foreign Produce.		Entered.	Departing.	Entered.	Departing.
Maine - - -	1,245,235	1,001,875	50,700	1,052,575	81,231	155,060	2,274	2,240
New-Hampshire - -	348,609	150,682	16,393	167,075	14,565	7,177		
Massachusetts - -	17,063,482	3,886,138	6,210,724	10,096,862	195,917	139,746	4,755	4,579
Vermont - - -	228,650	884,202		884,202				
Rhode Island - -	1,185,934	565,370	216,170	781,540	26,250	23,045		
Connecticut - -	736,194	695,454	13,439	708,893	23,008	21,634		
New-York - - -	38,115,630	11,496,719	10,451,072	21,947,791	254,213	214,664	27,975	21,365
New-Jersey - -	48,004	30,859	7,106	37,965	850	1,652	171	
Pennsylvania - -	13,551,779	3,158,711	5,173,011	8,331,722	81,538	69,444	5,496	4,445
Delaware - - -	10,009	33,318	1,977	35,295	726	1,136		
Maryland - - -	4,928,569	2,947,352	1,063,396	4,010,748	69,655	62,212	4,130	2,931
Virginia - - -	635,436	4,596,077	655	4,596,732	30,668	50,734	7,944	8,069
North Carolina - -	367,545	581,740		581,740	36,862	48,688	2,169	3,568
South Carolina - -	1,534,483	7,468,966	85,070	7,554,036	38,463	63,820	18,261	18,848
Georgia - - -	330,993	4,366,630	1,874	4,368,504	15,769	37,905	7,202	8,563
Ohio - - -		1,810		1,810	369			
Louisiana - - -	4,167,521	9,048,506	1,235,874	10,284,380	48,698	68,144	23,622	22,943
Alabama - - -	179,554	1,518,701	8,411	1,527,112	13,366	16,086	1,596	1,807
Michigan Territory -	10,628							
Florida Territory -	16,590	209		209	692	195		59
District of Columbia	269,630	620,391	3,840	624,231	9,366	11,664	59	
Total . . .	84,974,477	53,055,710	24,539,612	77,595,322	942,206	953,012	105,654	99,417

## PUBLIC DOCUMENTS.

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### I.—DOMESTIC.

*Message of the President of the United States to the Nineteenth Congress.—Second Session.*

Fellow-Citizens of the Senate,  
and of the House of Representatives,

The assemblage of the Representatives of our Union in both Houses of Congress at this time, occurs under circumstances calling for the renewed homage of our grateful acknowledgments to the Giver of all good. With the exceptions incidental to the most felicitous condition of human existence, we continue to be highly favoured in all the elements which contribute to individual comfort and to national prosperity. In the survey of our extensive country, we have generally to observe abodes of health and regions of plenty. In our civil and political relations, we have peace without, and tranquillity within, our borders. We are, as a people, increasing with unabated rapidity in population, wealth, and national resources; and, whatever differences of opinion exist among us, with regard to the mode and the means by which we shall turn the beneficence of heaven to the improvement of our own condition,

there is yet a spirit animating us all, which will not suffer the bounties of Providence to be showered upon us in vain, but will receive them with grateful hearts, and apply them with unwearied hands, to the advancement of the general good.

Of the subjects recommended to the consideration of Congress at their last session, some were then definitively acted upon. Others left unfinished, but partially matured, will recur to your attention, without needing a renewal of notice from me. The purpose of this communication will be to present to your view the general aspect of our public affairs at this moment, and the measures which have been taken to carry into effect the intentions of the Legislature as signified by the laws then and heretofore enacted.

In our intercourse with other nations of the earth, we have still the happiness of enjoying peace and a general good understanding—qualified, however, in several important instances, by collisions

of interest, and by unsatisfied claims of justice, to the settlement of which, the constitutional interposition of the legislative authority may become ultimately indispensable.

By the decease of the Emperor Alexander of Russia, which occurred contemporaneously with the commencement of the last Session of Congress, the United States have been deprived of a long tried, steady, and faithful friend. Born to the inheritance of absolute power, and trained in the school of adversity, from which no power on earth, however absolute, is exempt, that monarch, from his youth, had been taught to feel the force and value of public opinion, and to be sensible that the interests of his own government would best be promoted by a frank and friendly intercourse with this republic, as those of his people would be advanced by a liberal commercial intercourse with our country. A candid and confidential interchange of sentiments between him and the government of the United States, upon the affairs of Southern America, took place at a period not long preceding his demise, and contributed to fix that course of policy which left to the other governments of Europe no alternative but that of sooner or later recognizing the independence of our southern neighbours, of which the example had, by the United States, already been set. The ordinary diplomatic communications between his successor, the Emperor Nicholas, and the United States, have suffered some interruption by the illness, departure, and subsequent decease of his minister re-

siding here, who enjoyed, as he merited, the entire confidence of his new sovereign, as he had eminently responded to that of his predecessor. But we have had the most satisfactory assurances, that the sentiments of the reigning emperor towards the United States, are altogether conformable to those which had so long and constantly animated his imperial brother; and we have reason to hope that they will serve to cement that harmony and good understanding between the two nations, which, founded in congenial interests, cannot but result in the advancement of the welfare and prosperity of both.

Our relations of Commerce and Navigation with France are, by the operation of the Convention of 24th June, 1822, with that Nation, in a state of gradual and progressive improvement. Convinced by all our experience, no less than by the principles of fair and liberal reciprocity which the United States have constantly tendered to all the nations of the earth, as the rule of commercial intercourse, which they would universally prefer, that fair and equal competition is most conducive to the interests of both parties, the United States, in the negotiation of that Convention, earnestly contended for a mutual renunciation of discriminating duties and charges in the ports of the two countries. Unable to obtain the immediate recognition of this principle in its full extent, after reducing the duties of discrimination, so far as it was found attainable, it was agreed that at the expiration of two years from the 1st of October, 1822, when the Con-

vention was to go into effect, unless a notice of six months on either side should be given to the other, that the Convention itself must terminate, those duties should be reduced by one fourth; and that this reduction should be yearly repeated, until all discrimination should cease, while the Convention itself should continue in force. By the effect of this stipulation, three-fourths of the discriminating duties which had been levied by each party upon the vessels of the other in its ports, have already been removed; and, on the first of next October, should the Convention be still in force, the remaining fourth will be discontinued. French vessels, laden with French produce, will be received in our ports on the same terms as our own; and, in return, will enjoy the same advantages in the ports of France. By these approximations to an equality of duties and of charges, not only has the commerce between the two countries prospered, but friendly dispositions have been on both sides encouraged and promoted. They will continue to be cherished and cultivated on the part of the United States. It would have been gratifying to have had it in my power to add, that the claims upon the justice of the French Government, involving the property and the comfortable subsistence of many of our fellow-citizens, and which have been so long and so earnestly urged, were in a more promising train of adjustment; but their condition remains unaltered.

With the Government of the Netherlands, the mutual abandonment of discriminating duties had

been regulated by Legislative acts on both sides. The act of Congress of the 20th April, 1818, abolished all discriminating duties of Import and Tonnage, upon the vessels and produce of the Netherlands in the ports of the United States, upon the assurance given by the Government of the Netherlands, that all such duties operating against the shipping and commerce of the United States, in that Kingdom, had been abolished. These reciprocal regulations had continued in force several years, when the discriminating principle was resumed by the Netherlands in a new and indirect form, by a bounty of ten per cent. in the shape of a return of duties to their national vessels, and in which those of the United States are not permitted to participate. By the act of Congress of 7th January, 1824, all discriminating duties in the United States were again suspended, so far as related to the vessels and produce of the Netherlands, so long as the reciprocal exemption should be extended to the vessels and produce of the United States in the Netherlands. But the same act provides that in the event of a restoration of discriminating duties to operate against the shipping and commerce of the United States, in any of the foreign countries referred to therein, the suspension of discriminating duties in favour of the navigation of such foreign country should cease, and all the provisions of the acts imposing discriminating foreign tonnage and impost duties in the United States, should revive, and be in full force with regard to that nation.

In the correspondence with the

Government of the Netherlands upon this subject, they have contended that the favour shown to their own shipping by this bounty upon their tonnage, is not to be considered as a discriminating duty. But it cannot be denied that it produces all the same effects. Had the mutual abolition been stipulated by Treaty, such a bounty upon the national vessels could scarcely have been granted consistently with good faith. Yet, as the act of Congress of 7th January, 1824, has not expressly authorised the Executive authority to determine what shall be considered as a revival of discriminating duties by a foreign Government to the disadvantage of the United States, and as the retaliatory measure on our part, however just and necessary, may tend rather to that conflict of legislation which we deprecate, than to that concert to which we invite all Commercial nations, as most conducive to their interest and our own, I have thought it more consistent with the spirit of our Institutions to refer the subject again to the paramount authority of the legislature, to decide what measure the emergency may require, than abruptly by Proclamation, to carry into effect the minatory provision of the act of 1824.

During the last session of Congress, Treaties of Amity, Navigation and Commerce, were negotiated and signed at this place with the Government of Denmark, in Europe and with the Federation of Central America, in this hemisphere. These treaties then received the constitutional sanction of the Senate, by the advice and consent to their ratification.

They were accordingly ratified on the part of the United States, and during the recess of Congress have been also ratified by the other respective contracting parties. The ratifications have been exchanged, and they have been published by Proclamations, copies of which are herewith communicated to Congress. These treaties have established between the contracting parties the principles of equality and reciprocity in their broadest and most liberal extent: Each party admitting the vessels of the other into its ports, laden with cargoes the produce or manufacture of any quarter of the globe, upon the payment of the same duties of tonnage and impost that are chargeable upon their own. They have further stipulated, that the parties shall hereafter grant no favour of navigation or commerce to any other nation, which shall not upon the same terms be granted to each other; and that neither party will impose upon articles of merchandise, the produce or manufacture of the other, any other or higher duties than upon the like articles being the produce or manufacture of any other country. To these principles there is in the Convention with Denmark an exception, with regard to the Colonies of that Kingdom in the Arctic Seas, but none with regard to her Colonies in the West Indies.

In the course of the last summer, the term to which our last Commercial Treaty with Sweden was limited, has expired. A continuation of it is in the contemplation of the Swedish Government, and is believed to be desirable on the part of the United States. It has been proposed by the King

of Sweden, that, pending the negotiation of renewal, the expired Treaty should be mutually considered as still in force, a measure which will require the sanction of Congress to be carried into effect on our part, and which I therefore recommend to your consideration.

With Russia, Spain, Portugal, and in general all the European Powers, between whom and the United States relations of friendly intercourse have existed, their condition has not materially varied since the last session of Congress. I regret not to be able to say the same of our commercial intercourse with the Colonial Possessions of Great Britain, in America. Negotiations of the highest importance to our common interests have been for several years in discussion between the two Governments; and on the part of the United States have been invariably pursued in the spirit of candour and conciliation. Interests of great magnitude and delicacy had been adjusted by the Conventions of 1815, and 1818, while that of 1822, mediated by the late Emperor Alexander, had promised a satisfactory compromise of claims which the Government of the United States, in justice to the rights of a numerous class of their citizens, was bound to sustain. But with regard to the commercial intercourse between the United States and the British Colonies in America, it has been hitherto found impracticable to bring the parties to an understanding satisfactory to both. The relative geographical position, and the respective products of nature cultivated by human industry, had constituted the elements of a com-

mmercial intercourse between the United States and British America, insular and continental, important to the inhabitants of both countries. But it had been interdicted by Great Britain, upon a principle heretofore practised upon by the colonizing nations of Europe, of holding the trade of their colonies, each in exclusive monopoly to herself. After the termination of the late war, this interdiction had been revived, and the British Government declined including this portion of our intercourse with her possessions in the negotiation of the Convention of 1815. The trade was then carried on exclusively in British vessels, till the act of Congress concerning navigation, of 1818, and the supplemental act of 1820, met the interdiction by a corresponding measure on the part of the United States. These measures, not of retaliation, but of necessary self-defence, were soon succeeded by an Act of Parliament, opening certain colonial ports to the vessels of the United States, coming directly from them, and to the importation from them of certain articles of our produce, laden with heavy duties, and excluding some of the most valuable articles of our exports. The United States opened their ports to British vessels from the Colonies, upon terms as exactly corresponding with those of the Act of Parliament, as, in the relative position of the parties, could be made. And a negotiation was commenced by mutual consent, with the hope, on our part, that a reciprocal spirit of accommodation and a common sentiment of the importance of the trade to the interests of the in-

habitants of the two countries, between whom it must be carried on, would ultimately bring the parties to a compromise, with which both might be satisfied. With this view the Government of the United States had determined to sacrifice something of that entire reciprocity which in all commercial arrangements with Foreign Powers they are entitled to demand, and to acquiesce in some inequalities disadvantageous to ourselves, rather than to forego the benefit of a final and permanent adjustment of this interest, to the satisfaction of Great Britain herself. The negotiation, repeatedly suspended by accidental circumstances, was, however, by mutual agreement and express assent, considered as pending, and to be speedily resumed. In the mean time, another Act of Parliament, so doubtful and ambiguous in its import as to have been misunderstood by the officers in the colonies who were to carry it into execution, opens again certain colonial ports, upon new conditions and terms, with a threat to close them against any nation which may not accept those terms, as prescribed by the British Government. This act passed in July, 1825, not communicated to the Government of the United States, not understood by the British Officers of the Customs in the Colonies where it was to be enforced, was nevertheless submitted to the consideration of Congress, at their last session. With the knowledge that a negotiation upon the subject had long been in progress, and pledges given of its resumption at an early day, it was deemed expedient to await the result of that negotiation, rather than to

subscribe implicitly to terms the import of which was not clear, and which the British authorities themselves, in this hemisphere, were not prepared to explain.

Immediately after the close of the last Session of Congress, one of our most distinguished citizens was despatched as Envoy Extraordinary and Minister Plenipotentiary to Great Britain, furnished with instructions which we could not doubt would lead to a conclusion of this long controverted interest, upon terms acceptable to Great Britain. Upon his arrival, and before he had delivered his letters of credence, he was met by an Order of the British Council, excluding from and after the first of December now current, the vessels of the United States from all the Colonial British ports, excepting those immediately bordering upon our Territories. In answer to his expostulations upon a measure thus unexpected, he is informed that, according to the ancient maxims of policy of European nations having colonies, their trade is an exclusive possession of the mother country. That all participation in it by other nations, is a boon or favour; not forming a subject of negotiation, but to be regulated by the Legislative Acts of the Power owning the colony. That the British Government, therefore, declines negotiating concerning it; and that, as the United States did not forthwith accept purely and simply the terms offered by the Act of Parliament, of July, 1825, Great Britain would not now admit the vessels of the United States even upon the terms on which she has opened them to the navigation of other nations.

We have been accustomed to

consider the trade which we have enjoyed with the British Colonies, rather as an interchange of mutual benefits, than as a mere favour received; that, under every circumstance, we have given an ample equivalent. We have seen every other nation, holding Colonies, negotiate with other nations, and grant them, freely, admission to the Colonies by Treaty; and, so far are the other colonizing nations of Europe now from refusing to negotiate for trade with their Colonies, that we ourselves have secured access to the Colonies of more than one of them by Treaty. The refusal, however, of Great Britain to negotiate, leaves to the United States no other alternative than that of regulating, or interdicting altogether, the trade on their part, according as either measure may affect the interests of our own country; and, with that exclusive object, I would recommend the whole subject to your calm and candid deliberations.

It is hoped that our unavailing exertions to accomplish a cordial good understanding on this interest, will not have an unpropitious effect upon the other great topics of discussion, between the two Governments. Our North-eastern and North-western boundaries are still unadjusted. The Commissioners under the 7th Article of the Treaty of Ghent, have nearly come to the close of their labours; nor can we renounce the expectation, enfeebled as it is, that they may agree upon their Report, to the satisfaction or acquiescence of both parties. The Commission for liquidating the claims for indemnity for slaves carried away after the close of the

war, has been sitting, with doubtful prospects of success. Propositions of compromise have, however, passed between the two Governments, the result of which, we flatter ourselves, may yet prove satisfactory. Our own dispositions and purposes towards Great Britain are all friendly and conciliatory; nor can we abandon, but with strong reluctance, the belief that they will ultimately meet a calm, not of favours, which we neither ask nor desire, but of equal reciprocity and good will.

With the American Governments of this hemisphere, we continue to maintain an intercourse altogether friendly, and between their nations and ours that commercial interchange of which mutual benefit is the source, and mutual good-will and harmony the result, is in a continual state of improvement. The war between Spain and them, since the total expulsion of the Spanish military force from their continental territories, has been little more than nominal; and their internal tranquillity, though occasionally menaced by the agitations which civil wars never fail to leave behind them, has not been affected by any serious calamity.

The Congress of Ministers from several of those nations which assembled at Panama, after a short session there, adjourned to meet again, at a more favourable season, in the neighbourhood of Mexico. The decease of one of our Ministers on his way to the Estates, and the impediments of the season, which delayed the departure of the other, deprived us of the advantage of being represented at the first meeting of the Congress. There is, however, no



reason to believe that any of the transactions of the Congress were of a nature to affect injuriously the interests of the United States, or to require the interposition of our Ministers, had they been present. Their absence has indeed deprived us of the opportunity of possessing precise and authentic information of the treaties which were concluded at Panama; and the whole result has confirmed me in the conviction of the expediency to the United States of being represented at the Congress. The surviving member of the Mission, appointed during your last Session, has accordingly proceeded to his destination, and a successor to his distinguished and lamented associate will be nominated to the Senate. A treaty of Amity, Navigation, and Commerce, has, in the course of the last summer, been concluded by our Minister Plenipotentiary at Mexico, with the United States of that Confederacy, which will also be laid before the Senate for their advice with regard to its ratification.

In adverting to the present condition of our fiscal concerns, and to the prospects of our Revenue, the first remark that calls our attention, is, that they are less exuberantly prosperous than they were at the corresponding period of the last year. The severe shock so extensively sustained by the commercial and manufacturing interests in Great Britain, has not been without a perceptible recoil upon ourselves. A reduced importation from abroad is necessarily succeeded by a reduced return to the Treasury at home. The net revenue of the present year

will not equal that of the last. And the receipts of that year which is to come will fall short of those in the current year. The diminution, however, is in part attributable to the flourishing condition of some of our domestic manufacturers, and so far is compensated by an equivalent more profitable to the nation. It is also highly gratifying to perceive, that the deficiency in the revenue, while it scarcely exceeds the anticipations of the last year's estimates from the Treasury, has not interrupted the application of more than eleven millions during the present year, to the discharge of the principal and interest of the debt, nor the reduction of upwards of seven millions of the capital debt itself. The balance in the Treasury on the 1st of January last, was five millions two hundred and one thousand six hundred and fifty dollars and forty-three cents. The receipts from that time to the 30th of September last, were nineteen millions five hundred and eighty-five thousand nine hundred and thirty-two dollars and fifty cents. The receipts of the current quarter, estimated at six millions of dollars, yield, with the sums already received, a revenue of about twenty-five millions and a half for the year. The expenditures for the three first quarters of the year have amounted to eighteen millions seven hundred and fourteen thousand two hundred and twenty-six dollars and sixty-six cents. The expenditures of the current quarter are expected, including the two millions of the principal debt to be paid, to balance the receipts. So that the expenses of the year amounting to upwards of

a million less than its income, will leave a proportionally increased balance in the Treasury on the 1st of January, 1827, over that of the 1st of January last. Instead of five millions two hundred thousand, there will be six millions four hundred thousand dollars.

The amount of duties secured on merchandise imported from the commencement of the year, until the 30th of September, is estimated at twenty-one millions two hundred and fifty thousand dollars, and the amount that will probably accrue during the present quarter, is estimated at four millions two hundred and fifty thousand, making for the whole year twenty-five millions and a half, from which the drawbacks being deducted, will leave a clear revenue from the customs, receivable in the year 1827, of about twenty millions four hundred thousand dollars, which with the sums to be received from the proceeds of public lands, the bank dividends, and other incidental receipts, will form an aggregate of about twenty-three millions, a sum falling short of the whole expenses of the present year, little more than the portion of those expenditures applied to the discharge of the public debt, beyond the annual appropriation of ten millions, by the act of 3d March, 1817. At the passage of that act, the public debt amounted to one hundred and twenty-three millions and a half. On the first of January next, it will be short of seventy-four millions. In the lapse of these ten years, fifty millions of public debt, with the annual charge of upwards of three millions of interest upon them, have been extinguished. At

the passage of that act, of the annual appropriation of the ten millions, seven were absorbed in the payment of interest, and not more than three millions went to reduce the capital of the debt. Of the same ten millions, at this time scarcely four are applicable to the interest, and upwards of six are effective in melting down the capital. Yet our experience has proved that a revenue consisting so largely of imposts and tonnage, ebbs and flows to an extraordinary extent, with all the fluctuations incident to the general commerce of the world. It is within our recollection that even in the compass of the same last ten years, the receipts of the Treasury were not adequate to the expenditures of the year; and that in two successive years it was found necessary to resort to loans to meet the engagements of the nation. The returning tides of the succeeding years replenished the public coffers, until they have again begun to feel the vicissitude of a decline. To produce these alterations of fulness and exhaustion, the relative operation of abundant or of unfruitful seasons, the regulations of foreign Governments, political revolutions, the prosperous or decaying condition of manufactures, commercial speculations, and many other causes, not always to be traced, variously combine. We have found the alternate swells and diminutions embracing periods of from two to three years. The last period of depression to us, was from 1819 to 1822. The corresponding revival was from 1823 to the commencement of the present year. Still we have no cause to apprehend a depression

comparable to that of the former period, or even to anticipate a deficiency which will intrench upon the ability to apply the annual ten millions to the reduction of the debt. It is well for us, however, to be admonished of the necessity of abiding by the maxims of the most vigilant economy, and of resorting to all honourable and useful expedients, for pursuing with steady and inflexible perseverance the total discharge of the debt.

Besides the seven millions of the loans of 1813, which will have been discharged in the course of the present year, there are nine millions, which, by the terms of the contracts, would have been, and are now, redeemable. Thirteen millions more of the loan of 1814 will become redeemable from and after the expiration of the present month; and nine other millions from and after the close of the ensuing year. They constitute a mass of thirty-one millions of dollars, all bearing an interest of six per cent. more than twenty millions of which will be immediately redeemable, and the rest within little more than a year. Leaving of this amount, fifteen millions to continue at the interest of six per cent., but to be, as far as shall be found practicable, paid off in the years 1827 and 1828. There is scarcely a doubt, that the remaining sixteen millions, might, within a few months, be discharged by a loan not exceeding five per cent. redeemable in the years 1829 and 1830. By this operation, a sum of nearly half a million of dollars may be saved to the nation; and the discharge of the whole thirty-one millions within the four years, may be greatly

facilitated, if not wholly accomplished.

By an act of Congress of 3d March, 1825, a loan for the purpose now referred to, or a subscription to stock, was authorized at an interest not exceeding four and a half per cent. But, at that time, so large a portion of the floating capital of the country was absorbed in commercial speculations, and so little was left for investment in the stocks, that the measure was but partially successful. At the last Session of Congress, the condition of the funds was still unpropitious to the measure; but the change so soon afterwards occurred, that had the authority existed to redeem the nine millions now redeemable by an exchange of stocks, or a loan at five per cent. it is morally certain that it might have been effected, and with it a yearly saving of ninety thousand dollars.

With regard to the collection of Revenue of Impost, certain occurrences have, within the last year, been disclosed in one or two of our principal ports, which engaged the attention of Congress at their last Session, and may hereafter require further consideration. Until within a very few years, the execution of the laws for raising the revenue, like that of all our other laws, has been ensured more by the moral sense of the community, than by the rigours of a jealous precaution, or by penal sanctions. Confiding in the exemplary punctuality and unsullied integrity of our importing merchants, a gradual relaxation from the provisions of the Collection Laws, a close adherence to which would have caused inconvenience

and expense to them, had long become habitual ; and indulgences had been extended universally, because they had never been abused. It may be worthy of your serious consideration, whether some further legislative provision may not be necessary to come in aid of this state of unguarded security.

From the reports herewith communicated to the Secretaries of War and of the Navy, with the subsidiary documents annexed to them, will be discovered the present condition and administration of our Military establishment on the land and on the sea. The organization of the Army having undergone no change since its reduction to the present Peace Establishment in 1821, it remains only to observe that it is yet found adequate to all the purposes for which a permanent armed force in time of peace can be needed, or useful. It may be proper to add, that, from a difference of opinion between the late President of the United States and the Senate, with regard to the construction of the act of Congress of 2d March, 1821, to reduce and fix the Military Peace Establishment of the United States, it remains hitherto so far without execution, that no Colonel has been appointed to command one of the Regiments of Artillery. A supplementary, or explanatory act of the Legislature, appears to be the only expedient practicable for removing the difficulty of this appointment.

In a period of profound peace, the conduct of the mere military establishment forms but a very inconsiderable portion of the duties devolving upon the administration

of the Department of War. It will be seen by the returns from the subordinate departments of the Army, that every branch of the service is marked with order, regularity and discipline. That from the Commanding General through all the gradations of superintendence, the officers feel themselves to have been citizens before they were soldiers, and that the glory of a Republican Army must consist in the spirit of freedom by which it is animated, and of patriotism by which it is impelled. It may be confidently stated, that the moral character of the Army is in a state of continual improvement, and that all the arrangements for the disposal of its parts have a constant reference to that end.

But to the War Department are attributed other duties, having indeed relation to a future possible condition of war, but being purely defensive, and in their tendency contributing rather to the security and permanency of peace. The erection of the fortifications provided for by Congress and adapted to secure our shores from hostile invasion ; The distribution of the fund of public gratitude and justice to the pensioners of the Revolutionary War ; The maintenance of our relations of peace and of protection with the Indian Tribes ; and the internal improvements and surveys for the location of Roads and Canals, which during the last three sessions of Congress have engaged so much of their attention, and may engross so large a share of their future benefactions to our country.

By the act of the 30th of April, 1821, suggested and approved by

my predecessor, the sum of thirty thousand dollars was appropriated, for the purpose of causing to be made the necessary surveys, plans, and estimates of the routes of such roads and canals as the President of the United States might deem of national importance, in a commercial or military point of view, or necessary for the transportation of the public mail—the surveys, plans, and estimates, for each, when completed, to be laid before Congress.

In execution of this act, a Board of Engineers was immediately instituted, and have been since most assiduously and constantly occupied in carrying it into effect. The first object to which their labours were directed, by order of the late President, was the examination of the country between the tide waters of the Potomac, the Ohio, and Lake Erie, to ascertain the practicability of a communication between them, to designate the most suitable route for the same, and to form plans and estimates in detail of the expense of execution.

On the 2d of February, 1825, they made their first report, which was immediately communicated to Congress, and in which they declared that having maturely considered the circumstances observed by them personally, and carefully studied the results of such of the preliminary surveys as were then completed, they were decidedly of opinion that the communication was practicable.

At the last session of Congress, before the Board of Engineers were enabled to make up their second report, containing a general plan, and preparatory estimate for the work, the Committee of the

House of Representatives upon Roads and Canals, closed the session with a report, expressing the hope that the plan and estimate of the Board of Engineers might at this time be prepared, and that the subject be referred to the early and favourable consideration of Congress, at their present session. That expected Report of the Board of Engineers is prepared, and will be forthwith laid before you.

Under the resolution of Congress, authorizing the Secretary of War to have prepared a complete system of Cavalry Tactics of the United States, to be reported to Congress at the present session, a Board of distinguished officers of the army and of the militia, has been convened, whose Report will be submitted to you, with that of the Secretary of War. The occasion was thought favourable for consulting the same board, aided by the results of a correspondence with the Governors of the several States and Territories, and other citizens of intelligence and experience, upon the acknowledged defective condition of our Militia system, and upon the improvements of which it is susceptible. The report of the board upon this subject is also submitted for your consideration.

In the estimates of appropriations for the ensuing year, upwards of five millions of dollars will be submitted for the expenditures to be paid from the Department of War. Less than two fifths of this will be applicable to the maintenance and support of the Army. A million and a half, in the form of pensions, goes as a scarcely adequate tribute to the services

and sacrifices of a former age ; and a more than equal sum, invested in fortifications, or for the preparations of internal improvement, provides for the quiet, the comfort, and the happier existence of the ages to come. The appropriations to indemnify those unfortunate remnants of another race, unable alike to share in the enjoyments, and to exist in the presence of civilization, though swelling in recent years to a magnitude burdensome to the Treasury, are generally not without their equivalent, in profitable value ; or serve to discharge the Union from engagements more burdensome than debt.

In like manner, the estimate of appropriations for the Navy Department will present an aggregate sum of upwards of three millions of dollars. About one half of these, however, cover the current expenditures of the Navy in actual service, and one half constitutes a fund of national property, the pledge of our future glory and defence. It was scarcely one short year after the close of the late war, and when the burthen of its expenses and charges was weighing heaviest upon the country, that Congress, by the act of 29th April, 1816, appropriated one million of dollars annually, for eight years, to the *gradual increase of the Navy*. At a subsequent period, this annual appropriation was reduced to half a million for six years, of which the present year is the last. A yet more recent appropriation the last two years for building ten Sloops of War, has nearly restored the original appropriation of 1816, of a million for every year. The re-

sult is before us all. We have twelve line of battle Ships, twenty Frigates, and Sloops of War in proportion ; which, with a few months of preparation, may present a line of floating fortifications along the whole range of our coast, ready to meet any invader who might attempt to set foot upon our shores. Combining with a system of fortifications upon the shores themselves, commenced about the same time under the auspices of my immediate predecessor, and hitherto systematically pursued, it has placed in our possession the most effective sinews of war, and has left us at once an example and a lesson, from which our own duties may be inferred. The gradual increase of the Navy was the principle of which the act of 29th April, 1816, was the first development. It was the introduction of a system to act upon the character and history of our country for an indefinite series of ages. It was a declaration of that Congress to their constituents and to posterity, that it was the destiny and the duty of these Confederate States, to become, in regular process of time, and by no petty advances, a great Naval Power. That, which they proposed to accomplish in eight years, is rather to be considered as the measure of their means, than the limitation of their design. They looked forward for a term of years, sufficient for the accomplishment of a definite portion of their purpose ; and they left to their successors to fill up the canvass of which they had traced the large and prophetic outline. The ships of the line, and frigates which they had in

contemplation, will be shortly completed. The time which they had allotted for the accomplishment of the work has more than elapsed. It remains for your consideration, how their successors may contribute their portion of toil and of treasure for the benefit of the succeeding age, in the gradual increase of our Navy. There is, perhaps, no part of the exercise of the Constitutional Powers of the Federal Government, which has given more general satisfaction to the people of the Union, than this. The system has not been thus vigorously introduced, and hitherto sustained, to be now departed from, or abandoned. In continuing to provide for the gradual increase of the Navy, it may not be necessary or expedient to add for the present any more to the number of our ships; but should you deem it advisable to continue the yearly appropriation of half a million to the same objects, it may be profitably expended, in providing a supply of timber to be seasoned, and other materials for future use; in the construction of docks, or in laying the foundations of a School for Naval Education, as to the wisdom of Congress either of those measures may appear to claim the preference.

Of the small portion of this Navy engaged in actual service during the peace, squadrons have continued to be maintained in the Pacific Ocean, in the West India Seas, and in the Mediterranean; to which has been added a small armament, to cruise on the Eastern coast of South America. In all they have afforded protection to our commerce, have contributed to make our country advantage-

ously known to foreign nations, have honourably employed multitudes of our seamen in the service of their country, and have inured numbers of youths of the rising generation to lives of manly hardihood and of nautical experience and skill. The piracies with which the West India Seas were for several years infested, have been totally suppressed. But, in the Mediterranean, they have increased in a manner afflictive to other nations, and but for the continual presence of our squadron, would probably have been distressing to our own. The war which has unfortunately broken out between the Republic of Buenos Ayres and the Brazilian Government, has given rise to very great irregularities among the Naval officers of the latter, by whom principles in relation to blockades, and to neutral navigation, have been brought forward, to which we cannot subscribe, and which our own commanders have found it necessary to resist. From the friendly disposition towards the United States constantly manifested by the Emperor of Brazil, and the very useful and friendly commercial intercourse between the United States and his dominions, we have reason to believe that the just reparation demanded for the injuries sustained by several of our citizens from some of his officers, will not be withheld. Abstracts from the recent despatches of the Commanders of our several squadrons, are communicated with the Report of the Secretary of the Navy to Congress.

A Report from the Postmaster General is likewise communicated, presenting in a highly satis-

factory manner the result of a vigorous, efficient and economical administration of that Department. The revenue of the office, even of the year including the latter half of 1824, and the first half of 1825, had exceeded<sup>d</sup> its expenditures by a sum of more than forty-five thousand dollars. That of the succeeding year has been still more productive. The increase of the receipts, in the year preceding the first of July last, over that of the year before, exceeds one hundred and thirty-six thousand dollars, and the excess of the receipts over the expenditures of the year has swollen from forty-five thousand to nearly eighty thousand dollars. During the same period, contracts for additional transportation of the mail, in stages, for about two hundred and sixty thousand miles, have been made, and for seventy thousand miles, annually, on horseback. Seven hundred and fourteen new Post Offices have been established within the year; and the increase of revenue within the last three years, as well as the augmentation of the transportation by mail, is more than equal to the whole amount of receipts, and of mail conveyance, at the commencement of the present century, when the seat of the General Government was removed to this place. When we reflect that the objects effected by the transportation of the mail are among the choicest comforts and enjoyments of social life, it is pleasing to observe, that the dissemination of them to every corner of our country has outstripped in their increase even the rapid march of our population.

By the Treaties with France and Spain, respectively ceding Louisiana and the Floridas to the United

States, provision was made for the security of land titles derived from the Governments of those nations. Some progress has been made, under the authority of various Acts of Congress, in the ascertainment and establishment of those titles: but claims to a very large extent remained unadjusted. The public faith, no less than the just rights of individuals, and the interest of the community itself, appears to require further provision for the speedy settlement of these claims, which I therefore recommend to the care and attention of the Legislature.

In conformity with the provisions of the act of 20th May last, to provide for Erecting a Penitentiary in the District of Columbia, and for other purposes, three Commissioners were appointed to select a site for the erection of a Penitentiary for the District, and also a site in the county of Alexandria for a county Jail: both of which objects have been effected. The building of the Penitentiary has been commenced, and is in such a degree of forwardness as to promise that it will be completed before the meeting of the next Congress. This consideration points to the expediency of maturing, at the present session, a system for the regulation and government of the Penitentiary, and of defining the class of offences which shall be punishable by confinement in this edifice.

In closing this communication, I trust that it will not be deemed inappropriate to the occasion and purposes upon which we are here assembled, to indulge a momentary retrospect, combining, in a single glance, the period of our origin as a National Confederation



tion with that of our present existence, at the precise interval of half a century from each other. Since your last meeting at this place, the Fiftieth Anniversary of the day when our Independence was declared, has been celebrated throughout our land ; and on that day, when every heart was bounding with joy, and every voice was tuned to gratulation, amid the blessings of Freedom and Independence, which the sires of a former age had handed down to their children, two of the principal actors in that solemn scene, the hand that penned the ever-memorable declaration, and the voice that sustained it in debate, were, by one summons, at the distance of seven hundred miles from each other, called before the Judge of all, to account for their deeds done upon earth. They departed cheered by the benedictions of their country, to whom they left the inheritance of their fame, and the memory of their bright exam-

ple. If we turn our thoughts to the condition of their country, in the contrast of the first and last day of that half century, how resplendent and sublime is the transition from gloom to glory. Then glancing through the same lapse of time, in the condition of the individuals, we see the first day marked with the fulness and vigour of youth, in the pledge of their lives, their fortunes, and their sacred honour, to the cause of freedom and of mankind. And on the last, extended on the bed of death, with but sense and sensibility left to breathe a last aspiration to Heaven of blessing upon their country ; may we not humbly hope that to them, too, it was a pledge of transition from gloom to glory ; and that while their mortal vestments were sinking into the clod of the valley, their emancipated spirits were ascending to the bosom of their God.

JOHN QUINCY ADAMS.

*Washington, Dec. 5, 1826.*

*Convention between the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland. Concluded November 13, 1826.*

ARTICLE I.—His Majesty the King of the United Kingdom of Great Britain and Ireland agrees to pay, and the United States of America agree to receive, for the use of the persons entitled to indemnification and compensation by virtue of the said decision and Convention the sum of twelve hundred and four thousand nine hundred and sixty dollars, current money of the United States, in lieu of, and in full and com-

plete satisfaction for, all sums claimed or claimable from Great Britain, by any person or persons whatsoever, under the said decision and Convention.

ARTICLE II.—The object of the said Convention being thus fulfilled, that Convention is hereby declared to be cancelled and annulled, save and except the second article of the same, which has already been carried into execution by the Commissioners appointed

under the said Convention ; and save and except so much of the third article of the same, as relates to the definitive list of claims, and has already likewise been carried into execution by the said Commissioners.

ARTICLE III.—The said sum of twelve hundred and four thousand nine hundred and sixty dollars shall be paid at Washington, to such person or persons as shall be duly authorized, on the part of the United States, to receive the same, in two equal payments as follows :

The payment of the first half to be made twenty days after official notification shall have been made, by the Government of the United States, to his Britannic Majesty's Minister in the said United States, of the ratification of the present Convention by the President of the United States, by and with the advice and consent of the Senate thereof.

And the payment of the second half to be made on the first day of August, 1827.

ARTICLE IV.—The above sums being taken as a full and final liquidation of all claims whatsoever arising under the said decision and Convention, both the final adjustment of those claims, and the distribution of the sums so paid by Great Britain to the United States, shall be made in such manner as the United States alone shall determine ; and the Government of Great Britain shall have no further concern or liability therein.

ARTICLE V.—It is agreed that, from the date of the exchange of

the ratifications of the present Convention, the Joint Commission appointed under the said Convention of St. Petersburg, of the twelfth of July, 1822, shall be dissolved ; and, upon the dissolution thereof, all the documents and papers in possession of the said Commission, relating to claims under that Convention, shall be delivered over to such person or persons as shall be duly authorized, on the part of the United States, to receive the same. And the British Commissioner shall make over to such person or persons, so authorized, all the documents and papers, (or authenticated copies of the same, where the original cannot conveniently be made over,) relating to claims under the said Convention, which he may have received from his Government for the use of the said Commission, conformably to the stipulations contained in the third article of the said Convention.

ARTICLE VI.—The present Convention shall be ratified, and the ratifications shall be exchanged in London, in six months from this date, or sooner, if possible.

In witness whereof, the Plenipotentiaries aforesaid, by virtue of their respective full powers, have signed the same, and have affixed thereunto the seals of their arms.

Done at London, this thirteenth day of November, in the year of our Lord one thousand eight hundred and twenty six.

[L. S.] *Albert Gallatin,*

[L. S.] *William Huskisson,*

[L. S.] *Henry Unwin Addington.*

*Proclamation, by the President of the United States.*

Whereas, by the sixth section of an act of Congress, entitled "An act to regulate the commercial intercourse between the United States and certain British Colonial ports," which was approved on the first day of March, in the year of our Lord 1823, it is enacted "that this act, unless repealed, altered, or amended, by Congress, shall be and continue in force so long as the above enumerated British Colonial ports shall be open to the admission of the vessels of the United States, conformably to the provisions of the British act of Parliament, of the twenty-fourth of June last, being the forty-fourth chapter of the Acts of the third year of George the Fourth: But if at any time the trade and intercourse between the United States and all or any of the above enumerated British Colonial ports, authorized by the said act of Parliament, should be prohibited by a British Order in Council, or by Act of Parliament, then, from the day of the date of such Order in Council, or act of Parliament, or from the time that the same shall commence to be in force, proclamation to that effect having been made by the President of the United States, each and every provision of this act, so far as the same shall apply to the intercourse between the United States and the above enumerated British Colonial ports, in British vessels, shall cease to operate in their favour; and each and every provision of the 'Act concerning Navigation,' approved on the eighteenth of April, one thousand eight hundred and eighteen, and

of the act supplementary thereto, approved on the fifteenth of May, one thousand eight hundred and twenty, shall revive and be in full force."

And whereas, by an act of the British Parliament, which passed on the fifth day of July, in the year of our Lord 1825, entitled "An act to repeal the several laws relating to the customs," the said act of Parliament of the 24th June, 1822, was repealed; and by another act of the British Parliament passed on the 5th day of July, in the year of our Lord 1825, in the 6th year of the reign of George the Fourth, entitled "An act to regulate the trade of the British possessions abroad," and by an order of His Britannic Majesty in Council, bearing date the 27th July, 1826, the trade and intercourse authorized by the aforesaid act of Parliament, of the 24th June, 1822, between the United States and the greater part of the said British Colonial ports therein enumerated, have been prohibited upon and from the first day of December last past, and the contingency has thereby arisen on which the President of the United States was authorized by the 6th section aforesaid of the act of Congress of 1st March, 1823, to issue a proclamation to the effect therein mentioned:

Now, therefore, I, John Quincy Adams, President of the United States of America, do hereby declare and proclaim that the trade and intercourse authorized by the said act of Parliament of the 24th of June, 1822, between the United States and the British Colonial

ports enumerated in the aforesaid act of Congress of the 1st March, 1823, have been, and are, upon and from the 1st day of December, 1826, by the aforesaid two several acts of Parliament, of the 5th of July, 1825, and by the aforesaid British Order in Council of the 27th day of July, 1826, prohibited.

Given under my hand at the City of Washington, this 17th day of March, in the year of our Lord 1827, and the fifty-first year of the Independence of the United States.

JOHN QUINCY ADAMS.

By the President :

H. CLAY, *Secretary of State.*

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*General Convention of Friendship, Commerce, and Navigation, between the United States of America, and His Majesty the King of Denmark.*

The United States of America and His Majesty the King of Denmark, being desirous to make firm and permanent the peace and friendship which happily prevail between the two nations, and to extend the commercial relations which subsist between their respective territories and people, have agreed to fix, in a manner clear and positive, the rules which shall, in future, be observed between the one and the other party, by means of a General Convention of Friendship, Commerce, and Navigation. With that object, the President of the United States of America has conferred full powers on Henry Clay, their Secretary of State, and his Majesty the King of Denmark, has conferred like powers on Peter Peder sen, his Privy Counsellor of Legation, and Minister resident near the said States, Knight of the Dannebrog, who, after having exchanged their said full powers, found to be in due and proper form, have agreed to the following articles :

ARTICLE I.—The contracting parties, desiring to live in peace and harmony with all the other na-

tions of the earth, by means of a policy frank and equally friendly with all, engage, mutually, not to grant any particular favour to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession were freely made, or on allowing the same compensation, if the concession were conditional.

ARTICLE II.—The contracting parties being, likewise, desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens and subjects of each may frequent all the coasts and countries of the other, (with the exception hereafter provided for in the sixth article,) and reside and trade there in all kinds of produce, manufactures, and merchandise ; and they shall enjoy all the rights, privileges, and exemptions, in navigation and commerce, which native citizens, or subjects, do, or shall enjoy, submitting themselves to the laws, decrees, and usages, there established, to which native citizens or subjects are subjected.

But it is understood that this article does not include the coasting trade of either country, the regulation of which is reserved by the parties, respectively, according to their own separate laws.

ARTICLE III.—They, likewise, agree that whatever kind of produce, manufacture, or merchandise, of any foreign country, can be, from time to time, lawfully imported into the United States, in vessels belonging wholly to the citizens thereof, may be also imported in vessels wholly belonging to the subjects of Denmark; and that no higher or other duties upon the tonnage of the vessel or her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other. And in like manner, that whatever kind of produce, manufacture, or merchandise, of any foreign country, can be, from time to time, lawfully imported into the dominions of the King of Denmark, in the vessels thereof, (with the exception hereafter mentioned in the sixth article,) may be also imported in vessels of the United States; and that no higher or other duties upon the tonnage of the vessel or her cargo, shall be levied and collected, whether the importation be made in vessels of the one country or of the other. And they further agree, that whatever may be lawfully exported or re-exported, from the one country, in its own vessels, to any foreign country, may, in like manner, be exported or re-exported in the vessels of the other country. And the same bounties, duties, and drawbacks, shall be allowed and collected, whether such exportation or re-exportation be made in

vessels of the United States or of Denmark. Nor shall higher or other charges of any kind be imposed, in the ports of one party, on vessels of the other, than are, or shall be, payable in the same ports by native vessels.

ARTICLE IV.—No higher or other duties shall be imposed on the importation into the United States of any article, the produce or manufacture of the dominions of his Majesty the King of Denmark; and no higher or other duties shall be imposed on the importation into the said dominions of any article, the produce or manufacture of the United States, than are, or shall be, payable, on the like articles, being the produce or manufacture of any other foreign country. Nor shall any higher or other duties, or charges, be imposed in either of the two countries, on the exportation of any articles to the United States, or to the dominions of his Majesty the King of Denmark, respectively, than such as are, or may be, payable on the exportation of the like articles to any other foreign country. Nor shall any prohibition be imposed on the exportation or importation of any articles, the produce or manufacture of the United States, or of the dominions of his Majesty the King of Denmark, to or from the territories of the United States, or to or from the said dominions, which shall not equally extend to all other nations.

ARTICLE V.—Neither the vessels of the United States, nor their cargoes, shall, when they pass the Sound or the Belts, pay higher or other duties than those which are, or may be, paid by the most favoured nation.

**ARTICLE VI.**—The present Convention shall not apply to the Northern possessions of his Majesty the King of Denmark, that is to say, Iceland, the Farö Islands, and Greenland, nor to places situated beyond the Cape of Good Hope, the right to regulate the direct intercourse with which possessions and places, is reserved by the parties respectively. And it is further agreed, that this Convention is not to extend to the direct trade between Denmark and the West India colonies of his Danish Majesty; but, in the intercourse with those colonies, it is agreed, that whatever can be lawfully imported into, or exported from, the said colonies, in the vessels of one party, from or to the ports of the United States, or from or to the ports of any other foreign country, may, in like manner, and with the same duties and charges, applicable to vessel and cargo, be imported into, or exported from, the said colonies, in vessels of the other party.

**ARTICLE VII.**—The United States and his Danish Majesty mutually agree, that no higher or other duties, charges, or taxes, of any kind, shall be levied in the territories or dominions of either party, upon any personal property, money, or effects, of their respective citizens or subjects, on the removal of the same from their territories or dominions reciprocally, either upon the inheritance of such property, money, or effects, or otherwise, than are, or shall be, payable in each State, upon the same, when removed by a citizen or subject of such State, respectively.

**ARTICLE VIII.**—To make more effectual the protection which the

United States and his Danish Majesty shall afford, in future, to the navigation and commerce of their respective citizens and subjects, they agree, mutually, to receive and admit Consuls and Vice Consuls in all the ports open to foreign commerce, who shall enjoy in them all the rights, privileges, and immunities, of the Consuls and Vice Consuls of the most favoured nation, each contracting party, however, remaining at liberty to except those ports and places in which the admission and residence of such Consuls may not seem convenient.

**ARTICLE IX.**—In order that the Consuls and Vice Consuls of the contracting parties may enjoy the rights, privileges, and immunities, which belong to them, by their public character, they shall, before entering on the exercise of their functions, exhibit their commission or patent in due form to the Government to which they are accredited; and having obtained their exequatur, which shall be granted gratis, they shall be held and considered as such by all the authorities, magistrates, and inhabitants, in the Consular district in which they reside.

**ARTICLE X.**—It is likewise agreed, that the Consuls, and persons attached to their necessary service, they not being natives of the country in which the Consul resides, shall be exempt from all public service, and also from all kind of taxes, imposts, and contributions, except those which they shall be obliged to pay, on account of commerce, or their property, to which inhabitants, native and foreign, of the country in which such Consuls reside, are subject, being in every thing besides subject to the laws of the respective States. The archives and papers of the Consulate shall be respected in-

violably, and, under no pretext whatever, shall any magistrate seize or in any way interfere with them.

ARTICLE XI.—The present Convention shall be in force for ten years from the date hereof, and further until the end of one year after either of the contracting parties shall have given notice to the other of its intention to terminate the same; each of the contracting parties reserving to itself the right giving such notice to the other of at the end of the said term of ten years; and it is hereby agreed, between them, that, on the expiration of one year after such notice shall have been received by either, from the other party, this Convention, and all the provisions thereof, shall altogether cease and determine.

ARTICLE XII.—This Convention shall be approved and ratified

by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Majesty the King of Denmark, and the ratifications shall be exchanged in the city of Copenhagen, within eight months from the date of the signature hereof, or sooner, if possible.

In faith whereof, we, the Plenipotentiaries of the U. States of America and of his Danish Majesty, have signed and sealed these presents.

Done in triplicate, at the City of Washington, on the twenty-sixth day of April, in the year of our Lord one thousand eight hundred and twenty-six, in the fiftieth year of the Independence of the United States of America.

H. CLAY.

PR. PEDERSEN.

### *Correspondence on the Trade between the United States and the British Colonies.*

*Extract of a letter from Mr. Rush to Mr. Adams, No. 10, dated London, August 12th, 1824.*

My letter of the second of this month will have informed you that the negotiations in which I had so long been engaged with this Government had come to a close, but without any treaty, or other arrangement having been concluded, on any of the subjects which had been given in charge to me. This is a result which I should lament the more, did I not endeavour to reconcile myself to it by the reflection that I have earnestly, though fruitlessly, striven to render it more auspicious, and by the consideration, far more important, that, as several of the subjects

discussed have been both of novelty and magnitude between the two nations, my Government will have the opportunity of being put in more full possession of the sentiments of this Government, prior to the conclusion, or to the proposal anew, of any definite or final stipulations. The task of reporting to you, for the information of the President, the whole progress of the negotiation, now devolves upon me. I enter upon it in the anxious hope, that, whilst shunning a prolixity that might fatigue, I may nevertheless omit nothing necessary to a full understanding of all that has passed. I console myself with the recollection that the protocols, and other papers

that will be transmitted to you, will mainly delineate every material occurrence. From these may be learned all the formal proposals that have been made on the one side or on the other; but the grounds of them, the discussions by which they were sustained or opposed, together with various explanations which the written memorials of the negotiation, wearing for the most part the character of abstracts only, do not indicate, these it becomes my duty to make you also acquainted with, in every essential particular. It must be my purpose to fulfil this duty in the course of the present despatch.

It was my first intention to have made my report to you in the shape of separate communications, allotting a distinct one to each subject, that I might be able to follow, in this respect, the example of your instructions to me. But, after the discussions were opened, it was often found impracticable to keep the subjects distinct. More than one subject, or branches of more than one, would sometimes engage our conferences on the same day, superinducing the necessity of mixing them up in one and the same protocol. For this reason, and because, also, the British Plenipotentiaries, in some instances, established a connexion between subjects where, as I thought, none regularly had place, and so treated them in our records in the manner I shall have occasion to describe; it has appeared to me most conducive to good order to present the whole under one view. If this unity in my report should not appear at first sight to be suggested

by a view of the diversity, as well as number of its subjects, it has seemed to me, upon the whole, to adapt itself best to the course which the negotiation actually took, both in the oral discussions, and in the entries upon the protocols; and that it will become most intelligible, whether in its incidents or its general spirit, when exhibited as a whole. In the hope that this mode of making up my report may meet your approbation, I proceed, without more of introduction, to its proper business.

1. After the slave trade question had been disposed of, the subject upon which we next entered was that of the commercial intercourse between the United States and the British Colonial ports in the West Indies and North America. Copious as this subject was found to be, when examined in all its details, its mere discussion, I mean the strictly commercial parts, was perhaps attended with less difficulty than that of some others. It had been familiar to the past and even recent discussions of the two Governments; so much so, that, upon almost every point connected with it, opinions had been formerly expressed by both. When, at an early stage, the British Plenipotentiaries said that after the opening of this trade to the vessels of the United States, by the act of Parliament of the 24th June, 1822, it had not been expected, by Great Britain, that our foreign tonnage duty and additional impost would have been continued to be levied upon their vessels, I naturally replied that, to whatever other observations the policy of the United States might be open in this respect, it could scarcely be said to have been unexpected, as, upon at



least two occasions, since I had been their organ at this Court, they had expressly declined acceding by compact to the very terms in regard to this trade, that were afterwards moulded into the act of Parliament. Your instructions being precise and full upon this head, I caused them to be well understood. I recapitulated the history of the negotiations that led to the Convention of the 20th October, 1818, in all those parts of it which had relation to the question of commercial intercourse. I presented the review of all the legislative acts or other measures affecting this intercourse, as well prior as subsequent to that Convention. On the side of Great Britain, the act of Parliament of July, 1812, the draft of the four articles submitted by Lord Castlereagh, in 1817, the act of Parliament of May, 1818, and the Order of Council which followed it on the 27th of the same month. On the side of the United States, the act of Congress of the 3d of March 1815, (the legislative basis of their system of reciprocity,) the two acts, original and supplementary, of April the 18th, 1818, and May 15th, 1820, concerning navigation; the act of May the 6th, 1822, with the President's proclamation of the 24th of August, founded upon that act: to all these I referred, in connexion, also, with the second negotiation of June and September, 1819, when the proposals again made by the United States for regulating this intercourse by treaty, were again rejected by Great Britain. The deduction I maintained from the whole was, that the United States, with uniform consistency and steadiness, pursued a course in regard to this

trade, which aimed at putting it upon a footing of entire reciprocity; that they asked nothing more, but, in justice to their citizens, could be satisfied with nothing less.

To work out this reciprocity seemed, however, not to be an easy task, I remarked, on the side of Great Britain, whatever might be her desire. Her commercial system was of long standing, and from its great extent, often, in no slight degree, complicated and intricate. It was marked not only by a diversity in its operations upon her home and colonial empire, but by subdivided diversities in its application to her Colonies. In some of her West India Islands, for example, there were export duties; in others, none. Some had port charges, and various other local charges, operating upon vessels or their cargoes, not recognized in others; but, what was more important than all, her ancient navigation acts still remained substantially in force, mingling their fetters with all her modern legislation upon the same subject. Her commercial and navigating system, whatever other recommendations it might possess in her eyes, had been rendered by time and her past policy deficient in the uniformity and simplicity calculated to place it, in these respects at least, upon a par with the commercial and navigating system of the United States. This broad distinction between the two countries was always necessary to be kept in mind, I said, in their commercial dealings, whatever explanation or excuse it might furnish to Great Britain for continuing the pursuit of a course which still moved, in many points, in subordination to her ancient policy, it afforded to the United States neither mo-

tive nor justification for giving up their claim to the principle of an absolute and perfect equality, in all their regulations of trade with Great Britain.

This brought me to the true nature of the act of Parliament of the 24th June, 1822. I explained to the British Plenipotentiaries, that this statute had not, whatever might have been its intention, opened the ports of the British colonies in the West Indies and America, to the vessels of the United States, upon the same terms as were enjoyed by British vessels. The privileges granted by it to vessels of the United States, were, that they might carry directly, but in no other way, from some port of the United States to certain specified colonial ports, certain specified articles of merchandise, whilst very high duties were to be paid on all such of those articles, as could adone be the subjects of a profitable trade. British vessels, on the other hand, possessed the additional and exclusive privilege of carrying the same articles to the same colonial ports, directly or indirectly, and free from all duty whatever, when carried from a British colony in North America, to a British colony in the West Indies. Moreover, I observed, the vessels of the United States, admitted only as above to the colonial ports, were obliged, supposing they contained a cargo, to return directly to the United States, and to give bond, under a heavy penalty, for landing it at the port for which it was entered, with the additional burden, not imposed by the act of Parliament, but existing in fact, of paying a colonial export duty of four or five per cent. upon the

value of this return cargo. This burden did not fall equally upon British vessels, as they might avoid it by going, which they were free to do, to any port of the British dominions, either in Europe or America, a range not allowed to the vessels of the United States. Nor, were the British vessels required to give any export bond for landing the articles at the port for which entered, and producing within twelve months a certificate of this fact, a condition which was also attached to American vessels. It was evident, I insisted, from the foregoing recapitulation, that vessels of the United States had not the same privilege under this act of Parliament with British vessels, and that the former were, also, subject to restrictions, imposed by the act, or otherwise existing, from which the latter were exempt.

I reminded the British Plenipotentiaries, however, that no sooner had the knowledge of this act of Parliament reached the United States, than the President, exercising, without the least delay, the authority with which by anticipation he had been invested, issued his proclamation, of the 24th August, 1822, opening the ports of the United States, *generally*, to British vessels coming from any of the ports *enumerated* in the British act, an exercise of authority in a high degree liberal, considering the relative state of the statutes of the two countries then in force, for the regulation of this trade. In other respects, the proclamation of the President had done nothing more, I said, than lay British vessels, coming from the colonies to the United States,

under the same restrictions in regard to their cargoes, to which vessels of the United States were subject, when going to the colonies. This, in necessary justice to the United States, it was obliged to do, and, by the permanent laws of the Union, British vessels continued liable to the charge of foreign tonnage and impost duties.

I explained to the British Plenipotentiaries that, if neither the proclamation nor the permanent laws of the Union imposed burdens upon British vessels and their cargoes, which were the specific counterparts of those imposed by the act of Parliament, of the 24th of June, 1822, upon American vessels, they were, nevertheless, the necessary counterparts of the burdens which did, in point of fact, exist as against American vessels. To their owners it mattered not whence these burdens originated, so long as they continued to press unequally in the competition of American with British vessels. It was to complete the intention of meeting these burdens, upon a basis of reciprocity at all points, that the act of Congress of the first of March, 1823, was finally, and on full deliberation, passed. Its express object I described to be, to countervail all restrictions, of whatever kind they might be, in actual operation against vessels of the United States, whether enacted by the act of the 24th June, 1822, in force under the old navigation act of Charles the Second, or recognized and permitted by colonial ordinances or local regulations, in any of the British ports that had been opened. As this act of Congress could not effectuate its just object, by

applying to British vessels restrictions, which were of the precise and corresponding nature with those operating against the vessels of the United States, it adopted, I said, such as were analogous to them, without, however, in any instance, going beyond the measure of a necessary retaliation, but rather keeping within, than exceeding this limit. The act of Parliament had, it was true, proceeded upon the hypothesis of extending like privileges to American as to British vessels; but, here it had stopped, without imposing upon the latter the same restrictions which had previously existed against the former. The act of Congress went further, and, in according the like privileges with the British act, imposed also restrictions equivalent to those that were really and injuriously in force, against the vessels of the United States.

It was in this manner, that I fully opened to the British Plenipotentiaries the principles and views of my Government, in relation to this interest. If I am not more minute in recounting all that I said, it is merely because I abstain from swelling this communication, by a repetition of the principles, the facts and the arguments, contained in your despatch to me, of the 23d June, 1823. With the various matter of this despatch, I had made myself familiar, by frequent perusals of it, and, it was alike my duty and my endeavour, to exhibit it all to the British Plenipotentiaries, in the most perspicuous and impressive ways in my power. I went on to remark, that it seemed plain, notwithstanding our countervailing restrictions, that we

were still left at a disadvantage in the competition ; for that, for an enumerated list of ports open to our vessels, only part of which too had been opened by the act of Parliament of the 24th June, 1822, we had opened all our ports, in return to British vessels. For an enumerated list of articles, which we were alone allowed to export to the colonies, we received in return, all articles which the colonies found it most to their interest to send to us ; and, for a duty of ten per cent. on our articles imported into the West Indies, and of four or five per cent. on those that we brought away, our laws did nothing more than retain a foreign tonnage duty, of less than a dollar per ton on British vessels, and of ten per cent. on the duty otherwise chargeable on the articles brought to the United States in them. It was even doubtful, I said, whether, under these circumstances, our vessels would be able to continue the trade, and it was perhaps quite as much so, whether the double system of restrictions upon which it stood, would not deprive it of all value to both countries. I used, under this branch of the subject, all the topics of illustration with which your despatch had supplied me.

The British order in Council of the seventeenth of July, 1823, laying a duty of four shillings and three pence sterling per ton on our vessels going to the Colonial ports, to countervail, as Mr. Secretary Canning informed me in October last, our foreign tonnage duty, having been subsequent in date to your instructions to me, no remarks upon it were, consequently, embraced in them.

But I considered the duty imposed by this order open to the same animadversions as all the other burdens falling upon our vessels. If we had grounds for complaint before this measure, they were but increased by it. If we were deprived of the opportunity of fair competition in the absence of this new duty, its imposition could not but augment the inequality. If we were carrying on the trade under every prospect of disadvantage without it, a more positive and certain loss to us must be the result if it were continued. Hence, I did not scruple to say to the British Plenipotentiaries, that it must be considered as giving additional force to all our other objections to their regulations. I had not, I admitted, and from the cause stated, received your instructions upon the subject of it ; but as our foreign tonnage duty and the additional impost had been kept up against British vessels in necessary self-defence against all the anterior restrictions upon our vessels and duties upon their cargoes, I took it for granted that this new British duty, if not abrogated, would, on the same principles and from the same necessity, be met by some measure of counteraction on our side. In offering such comments as these upon it, I trust that they will be thought conformable to the true nature and objects of your instructions, though not in words pointed out by them.

In the end I offered, for the entire and satisfactory regulation of this trade, a draft of the two articles (marked A,) annexed to the protocol of the third conference. The first of these articles, after

reciting the restrictions upon the trade that existed on each side, and the desire and intention that prevailed of removing them, goes on to provide, that; upon the vessels of the United States admitted by law into the Colonial ports, and upon the merchandise imported in them, no other duties or charges of any kind, should be levied than upon British vessels, *including all vessels of the Colonies themselves*, or upon like merchandise imported into the Colonial ports from any other port or place, *including Great Britain and the Colonial ports themselves*. And, reciprocally, that upon the vessels of Great Britain admitted by law into the ports of the United States, and upon the merchandise imported in them, no other duties or charges of any kind should be levied than upon vessels of the United States, *including vessels of each and every one of the States*, or upon the like merchandise imported into the United States from any other port or place whatever. The words last underscored were inserted only for the greater satisfaction of the British Plenipotentiaries, it being explained by me, and so understood by them, that it could carry no new meaning; there being no such thing under our system with foreign nations, as a vessel of any one of the States distinct from a vessel of the United States. It followed that the passage would have had the same meaning without these words. The second article provided, in fulfilment of the intentions of the first, that the trade should continue upon the footing on which it had been placed by the laws of the two countries, with the exception of the removal

by Great Britain of the duties specified in schedule C, of the act of Parliament of the 24th of June, 1822, and those specified in the schedule B, of the act of the fifth of August of the same year, and of the removal, by the United States, of the foreign tonnage duty and additional impost, complained of by Great Britain. The article concluded with a mutual pledge for the removal of all discriminating duties on either side, of whatever kind they might be, from the desire which operated with the parties, of placing the trade in all respects upon a footing of perfect equality. Such was the nature of my proposals, for the more exact terms of which I beg to refer to the paper which contains them.

The British Plenipotentiaries made immediate, and the most decided objections to the part of these proposals which went to the abolition of the duties in the two schedules indicated. They declared that under no circumstances could they accede to such a principle; and they proceeded to assail it under every form. The fundamental error of their reasoning, as always heretofore upon the same point, appeared to me to lie in considering their Colonial possessions as part of the entire British dominion at one time, yet treating them as separate countries at another. For her own purposes, Britain could look upon these Colonies as on one and the same country with herself. For the purposes of trade with foreign States, she felt herself at liberty to consider them as detached from herself and forming a new and distinct country, as moving, in short, within a commercial orbit

wholly of their own. It was to this that her rule, resolved into its true principles, came at last. However such a rule might be met, and its application admitted, as between foreign States mutually possessing colonies, and therefore mutually able, in their commercial intercourse with each other, to act upon it, its application was manifestly unequal and incongruous towards the United States. Possessing no colonies themselves, the United States neither legislated nor acted upon a principle of subdividing their empire for any purpose of commercial advantage, or, above all, monopoly, with other nations, but held out indiscriminately to all, one integral and undivided system. In strict justice, it would, hence, not be unreasonable in them to expect that all nations, with which they entered into commercial stipulations, should look upon their colonies, if they had any, only in the light of an extension of the territories and jurisdiction of the parent State, since this was, in effect, the aspect which the United States presented throughout the whole extent of their territories and jurisdiction to all foreign nations. The productions of Massachusetts, for example, which entered into the articles of international traffic, were, as compared with those of Louisiana, scarcely less different in their nature than were those of Britain from those of Jamaica; yet one commercial code spread itself over the whole of the United States; of which foreign nations, and Britain amongst them, had the benefit, whilst different commercial codes, and entangling

commercial practices under them, were seen to exist on the part of Britain. This resulted from the mere fact, important it might be to Britain, but indifferent to the United States, of these codes and these practices being applicable to the Government of different portions of the British Empire; some of which fell under the denomination of her Home dominion, and some of her Colonial dominion.

It was to no effective purpose, however, that I enlarged upon, and endeavoured to enforce, by placing in other lights the foregoing distinctions. The British Plenipotentiaries continued to combat my positions, and to insist upon their right to lay whatever duties they deemed expedient upon our productions going to their islands, in protection of the like articles exported to them from any part of their own dominion. They said that they would never part with this right, for which we offered them no equivalent concession. They likened our request for its surrender by an analogy, the force of which I could never see, to a request on the side of Great Britain, should she prefer such a request, to be admitted into a participation of our coasting trade. They alleged also, that, in laying these duties, they had aimed only at making them a necessary protection to their own subjects in their North American colonies; and that they were scarcely up to this point was shown by the fact which they also alleged, of their subjects in those colonies not having yet been able, since the trade was opened, to obtain a proportionate share of it.

I had, more than once, occasion to remark, that it was not *the right* of either party to model its own laws as it thought proper, that we were discussing; it was the *terms* upon which it would be best to do so that we ought rather to be desirous of settling. Here were certain colonies belonging to Great Britain on the continent of North America. It happened that some of them were in the immediate neighbourhood of the United States. Their course of industry was the same, their productions the same. If the live stock and lumber from one of these colonies, from that of New-Brunswick for example, were allowed to be imported into Antigua or St. Christopher's, duty free, whilst similar articles from the State of Maine, bordering upon New Brunswick, laboured under a duty of ten per cent. on their importation into the same islands, was not, I asked, all just competition at an end? Still more was this the case, I remarked, if, after disposing of their cargoes, the vessel from New Brunswick could take in a return cargo, absolved from an export duty, and was, moreover, left at liberty to take advantage of circumstances by trading from colony to colony, whilst the vessel from Maine was obliged to depart in ballast, or, if she took in a cargo, do so subject to the export duty. How, too, under the weight of this latter duty, were the articles upon which it was charged to bear up in the markets of the United States against the competition of similar articles found in their markets, partly of their own produce, and partly derived from islands in the

West Indies, other than those belonging to Great Britain? It was thus, that I endeavoured to establish the reasonableness of our complaints, and to recommend our proposals to adoption. I admitted the general right which every nation had to foster the industry of its own subjects, preferably to that of strangers, but controverted its justice or expediency, as applicable to this trade, a trade that was anomalous in many points, and to be judged of and regulated, not so much on any general theory, as under an impartial view of all the peculiarities that belong to it. As to the expression "from elsewhere," introduced into the act of Congress of the 1st March, 1823, I insisted upon the propriety of giving it a construction that would include the British Colonies themselves as well as foreign countries, the only construction that ever could satisfy the United States, because the only one that could ever be equitable. Without it a reciprocity in words might exist; but there would be none in fact. There was obviously no foreign nation, except the United States, that supplied the British West Indies with the articles in which a traffic had been opened. To say, therefore, that they should be imported into the British islands, subject to no higher duties than were levied on articles of the same kind coming from any other foreign country, would be altogether unmeaning. The field of competition was exclusively in the North American Colonies of Britain. These, by their position and all their local peculiarities, were fairly to be considered as

another country, in the estimate of this trade, though they were, it was true, in political subjection to Great Britain. Their being dependencies, altered not those physical and geographical characteristics in them, which made them the rivals in this intercourse, and the only rivals of the United States.

The British Plenipotentiaries yielded to none of this reasoning. They admitted that there were many difficulties in the way of a satisfactory adjustment of the shipping question, and of this intercourse generally, between Great Britain and the United States. These difficulties were partly colonial, partly the result of their old navigation laws, and partly springing from the nature of the British North American trade, which bore so close an affinity to some portion of the trade of the United States. But they continued to declare their determination not to admit the productions of the United States into their islands, upon the same footing with the like productions from other colonies of their own: and they reiterated their allegations, that even, under the present duties on our productions, the trade was in our favour. They argued hence, that the amount of the duties, instead of being too high, seemed insufficient thus far, taken on a general scale, to balance the advantage of our proximity to the West Indies, and of the greater extent and productiveness of our soil. On this head they gave me details. They said that, by their latest accounts, full two-thirds of the flour and lumber sent to their islands from North America, were ascertained to have been of the produce of the United States, and that

perhaps seven-eighths of this quantity were conveyed in vessels of the United States. On the return trade, also, they declared that our vessels had a share not much below the same proportion. To these statements, I could only reply, that my impressions were different. That it was true I was in possession of no returns subsequent to June, 1823, but, that up to that period, my information justified me in believing that the trade had not yielded a fair proportion of gain to our merchants. The British Plenipotentiaries dwelt emphatically upon the circumstance of our vessels taking away specie from their islands, in place of a return cargo in the produce of the islands, as indicative of the trade being against the islands, since it left upon their hands their rum and molasses, articles which they were chiefly anxious should find a market in the United States. If it were the export duty that produced this necessity in our vessels to take payment in money for their cargoes rather than in the produce of the islands, the Plenipotentiaries said that they could not repeal it, because it applied equally to British vessels. It was a duty of four and a half per cent. existing on the exportation of produce, not in all of the islands, but in some of them, viz: in Antigua, St. Christopher's, Montserrat, Barbadoes, Nevis, and the Virgin Islands. In the latter, it was granted for the benefit of the crown, in 1774. In most or all of the others it had existed, for the same purpose, as far back as 1668. British vessels paid it, they said, when going from these islands, whether their destination was the mother country, or any foreign country.



But I did not understand them to say that it was paid if they went only from colony to colony.

To the objection of only a limited number of ports being open to our vessels, they said that they admitted them wherever custom houses were established ; and that the privilege reserved to British vessels, of going from colony to colony, was only the privilege of letting them enjoy their own coasting trade. They seemed to forget that, by whatever name this privilege went, it was still one which operated against the competition of vessels of the United States. On the non-admission into their islands of articles that we desired to send, as, for example, salt fish, beef, pork—these, they said, were also excluded from the direct trade between Great Britain and the United States, including all other foreign countries. Here, too, they seemed to throw out of mind, that this very exclusion, in whatever principle it originated, still operated against the commerce of the United States : for, that a system of positive exclusion formed no part of the regular or permanent system of the United States, and was, therefore, one of which, as long as they dealt out a different measure of commercial benefit to other nations, they had good grounds to complain.

I am saved the necessity of recapitulating any further, the remarks of the British Plenipotentiaries upon our proposals, from their having furnished me with a summary of them in writing. This was not in the regular course of our proceedings, and the paper not being considered as an official one, was not annexed to any protocol, or referred to in any. It was merely

given to me as an informal memorandum, in which light I was willing and glad to receive it, as it protects me from all risk of not doing justice in my report to their representations. It will be found among the enclosures, marked W.

After all that I have said, it may be almost superfluous to state, that this Government will decline abrogating the tonnage duty of four shillings and three pence sterling imposed upon our vessels, by the order in council, of July, 1823. Mr. Huskisson expressly brought this subject before the House of Commons, in the course of the last session of Parliament, with a view to give a full validity to that order, doubts having arisen how far it was justifiable by the provisions of the act of Parliament, of the preceding session, on which it was founded. By this act, a general power had been given to the King, in council, to impose countervailing duties on the cargoes of foreign vessels, but not upon their tonnage. It was under this act that the order of July, 1823, affecting the tonnage of our vessels, passed ; and Mr. Huskisson obtained, at the last session, a new act for indemnifying all persons concerned in executing this order, which, though out of the words, was conceived to be within the objects of the first act. A copy of the last act is enclosed. The two acts taken together now give to the King and Council, a permanent power to meet other nations on the ground of reciprocity in duties, both as to vessels and cargoes. To this ground Prussia has acceded, by a treaty concluded with this Government in April last, a printed copy of which I enclose, that its terms may

be seen. Denmark has done the same, by a treaty concluded in June. The latter is not published as yet, but I have reason to know that its terms are the same as those of the treaty with Prussia. It does not include the colonies of Denmark, nor, of course, those of Britain, standing, in this respect, upon the footing of our Commercial Convention with Britain of 1815. Prussia having no colonies, her treaty, as far as there will be room for its operation at all, necessarily stands upon the same footing. Among the colonies of Denmark are comprehended Greenland, Iceland, and the Feroë Islands, which are enumerated as such in the treaty. It is understood that Sweden has shown a disposition to come into this reciprocity, and that there are pending negotiations between this Government and that of the Netherlands to the same effect.

After the British Plenipotentiaries had finished all their remarks upon our proposals, I thought it best, seeing that they had not proved acceptable, to invite others from them, in turn, to be taken for reference to my Government. These they afforded me; and they are annexed, marked I., to the protocol of the sixteenth conference. The first article, after reciting the desire of both parties to abolish, reciprocally, all discriminating duties in this trade, proceeds to effect this purpose, after the British understanding of it. It pledges Great Britain to lay no higher duties on our produce, than upon produce of the same kind, imported not from *elsewhere*, or from any other country, but from any other *foreign* country; using

here the very term to which, in both the former negotiations, we had objected at large. The same term has place in the part of the article intended to operate against Great Britain, as she only claims, in sending her colonial produce to the United States, that it shall be received, subject to the same duties as are paid on articles of the same kind, when imported into the United States, from any other *foreign* country. To this correlative provision, the British Plenipotentiaries referred, as illustrative of the true idea of reciprocity. I again insisted upon its manifesting the very reverse. It was palpable, that the term had a real substantive meaning in the one case, but might as well be omitted in the other. Like produce with that sent to the British Islands from the United States, the Islands obtained, as we had seen, from no other foreign country, but only from the British possessions in North America: whereas the United States *did* receive from Cuba, from St. Domingo, and from other foreign islands and countries, the same kind of produce as that yielded in the British Islands. Surely, then, Great Britain would be benefitted by the operation of the term, whilst to the United States it must be nugatory. There was a visible sphere within which it would act in the one case, whilst, in the other, there was no shadow of foundation upon which it could rest. But I was always unsuccessful in obtaining, from the British Plenipotentiaries, the admissions due to us on this cardinal principle. Their second article provides for the actual abolition, subject of

course to the foregoing reservation, of all discriminating duties or charges of every kind, whether on the vessels or cargoes of the two Powers. The third contains a stipulation, that, in case the trade should prove, on trial, unduly advantageous to one of the parties, the other will examine in a proper spirit the complaint; and, on its being substantiated, adopt measures in unison with the true principles on which the parties intended to fix it. The fourth provides, that whatever advantages Great Britain may in future extend to any friendly State in Europe or America, with respect to this trade, shall be common to the United States; and that the United States shall extend to Great Britain whatever advantages they may, at any time, grant to the most favoured State, in any trade carried on between the possessions of such State, in the West Indies or America, and the United States. The fifth and last article provides, *in consideration of the foregoing arrangements*, that consuls shall be admitted from the United States into the open colonial ports, and received on the same conditions as are stipulated in the fourth article of the Convention of July, 1815. Upon this last article I shall have occasion to remark in another part of my communications. The others I leave, including the fourth, upon the remarks already made. The fourth, it is evident, still keeps to the British principle of considering their colonies as equivalent, of themselves, to the whole of the United States, in the arrangements of this trade. During the pendency of the negotiation, I

received a letter, which seemed to me to be of importance, from Mr. Kankey, our consular commercial agent at the Island of Barbadoes. He informed me that, under directions which had been recently given to the Collector and Comptroller of the Customs of that Island, by the Lords Commissioners of the Treasury, vessels of the United States were permitted to land a portion of their cargoes, and to carry the remainder elsewhere, if entered for exportation, paying the import duty only on so much as was landed. This regulation, he added, would be of service to our trade, provided the necessity of paying the tonnage money of four shillings and three pence sterling per ton, at more than one of the colonial ports, during the same voyage, could be avoided; and he appealed to me to have this effected. I immediately brought the subject before the British Plenipotentiaries, urging the right of our vessels to an exemption from all such double payments on the ground of British vessels never being subject to double payments of tonnage duty in the United States, during the same voyage, though they did proceed from port to port. I was asked if I had any instructions from my Government upon this point. I replied that I had not; but that I was confident in my belief, that under our laws, the fact could not be otherwise than as I had stated it. Mr. Huskisson then said, that he would obtain the sanction of this Government for placing our vessels in the West Indies upon the same footing, in this respect, upon which British vessels were placed in the

United States ; and would undertake, in his official capacity of President of the Board of Trade, to see that the necessary orders were forthwith issued for the accomplishment of this object. Mr. Kankey made another representation to me, which I also brought before the British Plenipotentiaries, as pertinent to the business in which we were engaged. He stated, that an improper duty was charged at Barbadoes, on the article of biscuit, when imported in barrels from the United States, a repeal of which he had not been able to effect, by remonstrating with the Collector. This article, when intended for a foreign market, is packed in barrels, such as are used to hold flour, and seldom contain, it appears, more than eighty pounds weight. But, without any reference to the weight, the collector was in the habit of demanding, on every such barrel of biscuit (the cracker) landed at Barbadoes, a duty of two shillings and sixpence sterling, when by the true construction of the act of Parliament of the 24th of June, 1822, under which the duty arose, it was believed that only *one shilling and sixpence per hundred weight* ought ever to be charged. Of this heavy overcharge on a single article, which the exporters of the Middle States were constantly sending to the British Islands, I complained in the terms that Mr. Kankey's representation to me warranted. Mr. Huskisson gave me an immediate assurance that my complaint should be attended to. He subsequently informed me, that, in consequence of it, the officers of the customs, generally, in the islands had been directed, in all cases where such biscuit was imported

from the United States, in barrels, weighing less than one hundred and ninety-six pounds, to charge the duty by the weight, and at the rate of not more than one shilling and sixpence sterling per hundred weight. I am happy to think, that, in at least these two instances, some portion of immediate relief is likely to be extended to our trade in that quarter.

From Mr. Monroe Harrison, the Consul of the United States at Antigua, I also received a communication, whilst our proceedings were going on, of which I apprized the Plenipotentiaries of this Government. He informed that our citizens, trading to that island, being often compelled to sell their cargoes on a credit, payable in produce when the crops came in, found it convenient, if not sometimes necessary, to make another voyage to the West Indies, in order to recover the proceeds of their cargoes so disposed of. The markets in the French, and other islands, being often better than in the British Islands, our citizens, in the predicament stated, would find it, Mr. Harrison remarked, to their advantage, to be able to resort to the former islands in the first instance ; but this object they were precluded from complying with that of afterwards calling at the British islands for the collection of their debts in the produce of them, since, should they only touch at the British Islands, having on board any article other than of the produce of the United States, their vessels became liable to seizure. I did not receive from the British Plenipotentiaries the same attention to this representation that was shown in the other cases, nor under my present light, did I feel al-

together warranted in pressing it upon the same grounds. They informed me, in the course of our conversation upon it, that there was no objection, under the British regulations, to a vessel of the United States, bound from one of our ports to any island in the West Indies, other than British, afterwards proceeding from such other island to a British island, with the whole or part of her cargo, provided it had not been landed at any intermediate port, and that there had been no change in the property during the voyage. I presume, that those of our citizens who are interested in knowing it, are acquainted with this construction of the British laws; which, however, does not present itself to my mind in the light of any important boon.

*Admission of Consuls of the United States into the British Colonial Ports.* My report upon this subject will be shortened by the communications which I have already had the honour to address to you at former periods, in relation to it. I allude more particularly to my despatches, numbered 343, and 352, of November and December, 1823, and to my official note to Mr. Secretary Canning, of the 17th of November, 1823. In that note, written after I had received your despatch of the 26th of June, 1823, I found it necessary to execute, in a great degree, the instructions which your despatch contained. This Government, during the negotiation, as well as when the correspondence above alluded to took place, always considered the subject of appointing consuls, to reside in their Colonies, as connected with that of the

commercial intercourse generally; and here I agreed that the connection was a natural one. It was evident that, but for the opening of the Colonial ports to our trade, we should not have asked for the privilege of appointing Consuls to reside at them: and if, by any circumstances, they were again to be closed, it was equally evident that our claim to consular representation would be at an end.

The consular appointments made by the President for Jamaica, St. Christopher's, and Antigua, Demerara and Barbadoes, had been sufficiently explained and justified to this Government in the course of my communications above mentioned, in conjunction also with my number 349, which covered another official note from me to Mr. Canning upon the same subject. Nevertheless, I did not omit to bring before the British Plenipotentiaries all the circumstances of this correspondence. They were particularly pertinent to our discussions on the question of commercial intercourse, which had hinged so entirely on the point of reciprocity, and throughout the whole course of which it had been the aim of each party to exonerate itself from any charge of deficiency in this important point, if not to fix that charge upon the other. I remarked upon the fact of our trade to the opened Colonial ports having now continued for two years without a single consul on the part of the United States having, to this day, been recognized in any one of them, though at least three of those who had gone there and presented themselves for recognition, had been appointed under the pre-

vious and express consent of his Majesty's Government; whilst, on the other hand, during the whole of this period, the British trade from those ports had been receiving full consular protection from the consuls of Great Britain in the ports of the United States. In this, at least, it must be admitted, there was no reciprocity. Nor was the absence of it cause of mere nominal complaint on the part of the United States. And here I brought into view, from your despatch of the 26th June, 1823, the practical inconveniences, especially in the Island of Barbadoes, to which our trade had been subjected, in the opened ports, on occasions which probably would not have occurred, had consuls from the United States been residing there. The British Plenipotentiaries met this complaint in the manner their Government had formerly done. They said that when their consent had been given for appointing consuls at three of the Colonial ports, it had been given under an expectation by Great Britain that the United States would carry on the trade, on terms that were reciprocal; but that afterwards, finding the terms to be such as Great Britain did not consider reciprocal, she forebore to perfect the appointments until the issue could be known, apprehending that the effect of new retaliatory measures on either side, would soon be, to put an end to the trade altogether. I rejoined, that, whatever motive deemed by herself sufficient, though not so regarded by the United States, Britain might allege for her course of conduct in this particular, it did not destroy

the broad fact, or lessen the evils arising from it, of Britain having enjoyed the advantage, during the two years of this trade, of full consular representation in the ports of the United States, whilst the United States had enjoyed none in the British ports.

On the principal question of the claim of the United States, to appoint Consuls for the Colonial ports, I took the ground which you had laid before me, and heretofore maintained in my note to Mr. Secretary Canning, of November the 17th, 1823, as well as in the one which I first of all addressed to him on this subject, on the 17th of October, 1822: namely, that our claim extended, not to any specified number of the Colonial ports, but all, without exception, that had been opened by the act of Parliament of the 24th of June 1822. This was the ground which I pressed upon the attention of the British Plenipotentiaries. It was the only ground, I said, which in the true sense of reciprocity, and therefore in the true sense of justice, could be supposed to be satisfactory to the United States. As they gave all, so it was reasonable that they should ask all. The United States excepted none of their ports to which the British Colonial vessels resorted, from the residence of British consuls, and had a fair right to expect that none of the Colonial ports to which American vessels resorted, would be excepted from the residence of American consuls. Consular protection was an incident of trade which the United States did not feel at liberty to forego in behalf of their citizens, so long as they allowed

it to be enjoyed in their ports, without limit or exception, by the subjects of Britain. It satisfied neither the real, nor even the verbal meaning of the term reciprocity, in this discussion, to say, that the residence of British consuls in the ports of the United States was matched by the residence of American Consuls in the ports of Great Britain in Europe. It was palpable that if a British ship, whether arriving from Liverpool or Barbadoes, received consular protection at New-York, and an American ship received it at Liverpool, but not at Barbadoes, there was no reciprocity in fact, whatever artificial reasons might justify Britain to herself, in distinguishing, in this respect too, her Colonial from her Home dominion. The only true match to the privilege on the one side, would be the extension of it to all the ports that were open, whether Home or Colonial, on the other.

The United States, I continued, in claiming to appoint consuls for all the Colonial ports, meant not to make an unreasonable use of the privilege, and so I was instructed to declare. But the privilege of selecting the ports must rest, I said, exclusively with the United States. Their consular system did not recognize any fixed emoluments as the standard of remuneration for their consuls, but left it to depend upon the fees produced by trade. Hence, in the ports to which trade flowed, consuls were necessary, and to those where there was none, it was not to be supposed they would be sent, or so much as consent to go. But as the channels of trade were liable to shift, there

was a manifest convenience and propriety on this, and all other accounts, in leaving the selection of the ports to the sound discretion of the appointing Power. Such were my remarks upon this subject, in addition to those that I formerly made, orally and in writing, to Mr. Canning. I did not, in conclusion, offer any formal article in relation to it; first, because I thought it unnecessary, after the aspect which the negotiation had assumed on the primary question of the commercial intercourse itself; and secondly, because I had been informed, in your instructions, that the President was not tenacious of any article relating to consuls being inserted in a commercial convention, if one had been formed. But I gave the British plenipotentiaries fully to understand the true nature of our claim, and that it would not in any wise fall short of the privilege of appointing for all the opened ports.

They consented, substantially, to this principle, as will be seen by the protocol of the twenty-fourth conference. Their expression in it, that they saw no objection to the admission of our consuls into their colonies, "subject to the usual exceptions and reservations," means that both parties were to be considered as reserving to themselves the privilege of excepting, from the residence of consuls, such particular places as they might think proper. This they explained to be their meaning. The same reservation had place in the sixteenth article of the treaty of the nineteenth of November, 1791; which was pointed out to me, by you, as the model

of an article, on the present occasion, had one been framed. It also exists in the fourth article of the commercial convention of the third of July, 1815; which article is indicated by the British plenipotentiaries, as the model, in the fifth article of their own counter-projet, annexed to the protocol of the sixteenth conference. The two articles on this subject, in the treaty of 1794, and in that of 1815, are so much alike, that they might be adopted, indiscriminately, as models; the latter being a copy, with only slight variations, from the former. In my note to Mr. Canning, of the 17th November, 1823, I had reminded him, that, in case Great Britain excluded American consuls from the ports of the colonies, the United States would have to reserve the right of excluding from the consular benefit, in their ports, all British vessels and seamen arriving from the colonies. I also, I reminded the British plenipotentiaries, that the United States would have to protect themselves, by a similar reservation, to an extent co-equal with that to which Britain might use her option of excepting from the residence of our consuls, particular places in her colonies, there being no other appropriate mode by which we could countervail on our side this right of exception on hers, so far as regarded her colonies.

It will be seen from the twenty-fourth protocol, that Britain continues to decline, for the present, receiving our consuls in any of her colonial ports. She acts, in this respect, under an impression that there is danger of the intercourse between these ports and the Uni-

ted States being soon wholly interrupted. She waits the disappearance of this danger before she recognizes our consuls, as its reality would, according to her way of reasoning, render her recognition of little value. It was in vain that I urged the justice of recognizing ours at once, so that we might be upon a par with Great Britain, *until* ulterior events were known. If her tonnage duty of four shillings and three-pence sterling per ton, on our vessels entering her colonial ports, and her additional impost of ten per cent., be met by countervailing duties on our side, as I was forced, for the reasons given in another part of this despatch, to intimate my belief that they would be, her plenipotentiaries have informed me that it will lead to fresh measures, of the same character, on her side: thus bringing on a state of things that can only terminate in rendering the trade no longer worth the pursuit of either country. If, on the other hand, the trade remains as at present regulated, without any alteration by either party, although Britain, as I have had occasion to remark before, alleges that she is dissatisfied with it; she will let it have a further trial, and, in this event, will receive our consuls on the terms mentioned in the twenty-fourth protocol. This she will do, as I understand her intentions, notwithstanding the tenor of the fifth article of her counter-projet, above mentioned, which would seem to make her consent to the reception of our consuls dependent upon our acceptance of her four preceding articles. I believe, moreover, that she would raise no



obstacle on the score of expense, but grant to our consuls exequaturs free of all charge, as we grant exequaturs to hers. This point I mentioned to the British Plenipotentiaries, and to its obvious justice they took no exception. There remains nothing further for me to impart to you on this subject. The protocols that relate to it are the twenty-third and the twenty-fourth.

*Protocol of the third Conference of the American and British Plenipotentiaries, held at the Board of Trade, February, 5th 1824.*

Present—Mr. Rush,  
Mr. Huskisson,  
Mr. Stratford Canning.

The Protocol of the preceding conference was read over and signed.

In pursuance of previous agreement, Mr. Rush brought forward the propositions of his Government respecting the trade between the British Colonies in North America and the West Indies and the United States, including the navigation of the St. Lawrence, by vessels of the United States. On concluding the statement with which Mr. Rush introduced these proposals, in explanation of the views and antecedent proceedings of his Government, he gave in the three articles which are hereunto annexed, (marked A.)

The British Plenipotentiaries, in receiving the articles thus presented to them for consideration, confined themselves to stating their first impressions as to the scope and extent of the American proposals, and the extreme diffi-

culty resulting therefrom, observing on such parts of the American Plenipotentiary's statement as appeared to them to call for immediate objection or to admit of satisfactory explanation.

Adjourned to Monday, the 17th instant at 2 o'clock.

*Richard Rush,  
W. Huskisson,  
Stratford Canning.*

*Protocol of the sixteenth Conference of the American and British Plenipotentiaries, held at the Board of Trade, on the 8th June, 1824.*

Present—Mr. Rush,  
Mr. Huskisson,  
Mr. Stratford Canning.

The Protocol of the preceding conference was read over and signed.

The British Plenipotentiaries, after further discussion in relation to commercial intercourse between the United States and certain of the British Colonies, gave in the annexed counter project, on that subject, in reference to what had passed at the preceding conference, observing, at the same time, that the first two articles of the proposal communicated by the American Plenipotentiary in their third conference with him, had, in their opinion, no necessary connection with the third, relating to the navigation of the river St. Lawrence, and, that they conceived it would be more convenient to treat of them separately.

Adjourned to Tuesday, the 15th instant.

*Richard Rush,  
W. Huskisson,  
Stratford Canning.*

## I.

*British counter-projet on Commercial Intercourse, (16th protocol.)*

His Britannic Majesty and the United States of America, being desirous to regulate, by mutual agreement, and on principles of just reciprocity, the trade now open under the respective laws between the United States and the British colonies in North America and the West Indies, have appointed Plenipotentiaries to negotiate and conclude a convention for that purpose; that is to say, on the part of His Britannic Majesty, —; and on the part of the United States of America, —; which Plenipotentiaries, after duly communicating to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

I. The subjects of His Britannic Majesty, and the citizens of the United States, shall continue to have liberty to trade between the ports of those States, and the open ports of His Majesty's possessions in North America and the West Indies, under the existing laws and regulations of the high contracting parties. And whereas it is considered mutually advantageous to the subjects and citizens of both parties, that all discriminating duties and charges reciprocally imposed and levied on the vessels of each nation and their cargoes, in the ports of the other, as aforesaid, should be withdrawn and altogether abolished, it is hereby agreed, that, upon the vessels of the United States admitted by law into all, and every one of His Britannic Majesty's colonial ports, as aforesaid, and

upon any goods, wares, or merchandise, lawfully imported therein, in the said vessels, no other or higher duties of tonnage or import, and no other charges of any kind, shall be levied or exacted than upon British vessels, including all vessels of the colonies themselves, or upon the like goods, wares, or merchandise, imported into the said colonial ports from any other foreign port or place whatever; and, likewise, that, upon the vessels of Great Britain, and of her colonies, admitted by law into all and every one of the ports of the United States, and upon any goods, wares, or merchandise, lawfully imported therein in the said vessels, no other or higher duties of tonnage or import, and no other charges of any kind, shall be levied or exacted than upon vessels of the United States, including all vessels of each and every one of the said States, or upon the like goods, wares, or merchandise, imported into the United States, from any other foreign port or place whatever.

II. For the more perfect fulfilment of the intentions of the high contracting parties, they pledge themselves, hereby, to remove, with as little delay as possible, His Britannic Majesty on his side, and the United States on their side, all additional duties of tonnage in the light of foreign tonnage duty, and all additional duties of import in the light of duties on goods imported in foreign vessels, at present existing, either against the vessels of the United States and their cargoes, admitted by law into any of the British colonial ports, as aforesaid, or against British vessels and their cargoes, admitted by law in-

to the ports of the United States, as well as all other discriminating duties and charges, of whatever kind they may be, intended by this, and the foregoing article, to be removed and altogether abolished.

III. It being the desire and intention of the high contracting parties, to place the trade in question on a footing of just reciprocity, they further agree, that, in case any of the existing enactments on either side, regulating the navigation in this trade, shall, contrary to expectation, be found, on further experience, to operate partially, and in such manner as to give to the subjects or citizens of the one party engaged therein, a clear and decided advantage, to the manifest prejudice of the subjects or citizens of the other, in opposition to the intention above declared, each of the two Governments shall, in such case, and according as the case may be, receive and examine the representations made to it thereon by the other, and, the complaints being fairly substantiated, shall lose no time in adopting such additional laws and regulations as may correct the grievance complained of, in conformity with the principle herein laid down.

IV. The high contracting parties, being further desirous to promote and extend this trade, in proportion as circumstances may, from time to time, allow, His Britannic Majesty, on his part, engages, that, whatever facility or advantage may hereafter be granted to any friendly State, either in Europe or in America, with respect to any commerce, direct or circuitous, to be carried on between such State and his Majesty's colonies in the West Indies or America,

shall be, in like manner, granted to the citizens of the United States; and the U. States, on their part, engage that, under this contingency, the subjects of His Majesty shall enjoy whatever facilities or advantages may, at any time, be granted by them to the subjects or citizens of the most favoured State, in any trade carried on between the possessions of that State in the West Indies or America, and the United States.

V. In consideration of the foregoing arrangements, his Britannic Majesty consents, that the Government of the United States shall be at liberty to appoint Consuls in His Majesty's open colonial ports in North America and the West Indies, and that consuls so appointed on their behalf shall be received under the same conditions as those which are stipulated in the fourth article of the Convention of Commerce, concluded in London, on the 3d July, 1815.

VI: The ratification of this convention, &c.

*Extracts from the Protocol of the twenty-fifth Conference of the American and British Plenipotentiaries, held at the Board of Trade, on the 22d of July, 1824.*

Present—Mr. Rush,  
Mr. Huskisson,  
Mr. Stratford Canning.

"The Protocol of the preceding conference was read over and signed."

"It was agreed, in consideration of the numerous and complicated questions on which the conferences had turned, that the Plenipotentiaries should meet again, and communicate with each other, prior to sending in to their respec-

tive Governments their final reports of the present state of the negotiations, suspended by the necessity of referring to Washington on some of the subjects that had been presented for discussion. Adjourned.

*Richard Rush,  
W. Huskisson,  
Stratford Canning."*

*Protocol of the twenty-sixth Conference of the American and British Plenipotentiaries, held at the Board of Trade, on the 28th of July, 1824.*

Present—Mr. Rush,  
Mr. Huskisson,  
Mr. Stratford Canning.

The Protocol of the preceding conference was read over and signed.

The Plenipotentiaries, after communicating with each other, in pursuance of the agreement taken at the preceding conference, and persuaded that they had sufficiently developed the sentiments of their respective Governments, on the various subjects of their conferences, separated, under the circumstances which necessarily prevented, for the present, any further progress in the negotiations.

*Richard Rush,  
W. Huskisson,  
Stratford Canning.*

W.

*Paper on the Commercial Inter-course Question, from the British Plenipotentiaries.*

The British Plenipotentiaries present the following remarks, on the articles of colonial intercourse proposed by the American Plenipotentiary at his third conference with them. The first two articles have no necessary connexion with

the third, which relates to the navigation of the river St. Lawrence; and the British Plenipotentiaries are of opinion that it is more convenient to treat of them separately.

The proposal contained in the two articles on colonial intercourse, is in substance as follows: The trade between the United States and His Majesty's Colonies in North America and the West Indies, to continue, as at present, regulated by the respective acts of Parliament and Congress, except that all discriminating charges on alien vessels and their cargoes, concerned in that trade, should be withdrawn on both sides, and further, that all articles of United States' produce should be admitted into the Colonies, exactly on the same terms as the like productions of the Colonies themselves, or of the mother country.

To all but the last clause of this proposal, the British Government are willing to consent. To that condition they decidedly object.

The objectionable condition amounts to no less than a stipulation that Great Britain shall renounce, in favour of the United States, and without a return on their side, the power of protecting the staples of her own subjects, by levying import duties on the like productions of a foreign country. In principle, such a proposition is evidently inadmissible. It could not be entertained with credit, by any power on which it was calculated to operate exclusively. It is directly at variance with the practice of all commercial, of all civilized States. It has no precedent in the commercial relations subsisting between the British dominions in Europe and the U. States.

*The specific grounds alleged in support of it, by the American Plenipotentiary, are, in the opinion of the British Government, wholly insufficient for that purpose.*

They are understood to be, in effect, first: That American vessels are subject to an export duty in the British West Indies, to which British vessels are not equally liable: Secondly, that, while all the ports of the United States are open to British vessels, only certain enumerated ports of the British Colonies are open to vessels of the United States: Thirdly, that American vessels are confined to a direct trade between the place of export and the place of import, while British vessels labour under no such restriction: Fourthly, that the British vessels, though confined to the same enumerated articles as the American, in the direct trade, are not so confined in trading from Colony to Colony, or with the ports of the mother country: Fifthly, that, while all articles of British Colonial produce are admitted into the United States, many important articles of American produce are excluded from the British West Indies: And, sixthly, that, on those articles of American produce which are admitted into the British Colonies, import duties are levied, or, at least, that higher import duties are levied, than on the like articles produced in His Majesty's dominions.

These several allegations are met, in detail, by the following specific statement:

First. The export duty complained of, is a duty of four and a half per cent, levied in some of the Leeward Islands, on the pro-

duce of those islands, whether exported in British or in American vessels, and equally, whether exported to Great Britain or to foreign countries.

Secondly. The Colonial ports opened, by act of Parliament, to foreign vessels from America, are all those in which custom houses are established.

Thirdly. The American Congress has passed an act confining British vessels to a direct trade, under bond, in the very same manner as American vessels are restricted by the British act of Parliament, and even to a greater degree.

Fourthly. The liberty of trading between Colony and Colony, as well as within the mother country, enjoyed exclusively by British vessels in this trade, is no other than a part of the coasting trade, which every Government secures to its own subjects. The Americans enjoy a like advantage on their side; and the British are not allowed, on the same principle, to carry on trade between the several ports and States of the American Union.

Fifthly. The exclusion of certain articles of American produce, such as salt fish, from the West India market, is no other than what already exists in the trade between Great Britain and the United States, comprising other foreign countries. It is by no means peculiar to the colonial intercourse. The rum and molasses of the British West Indies, are, *in point of fact*, but barely admitted to the market of the United States.

Sixthly. The protecting duties levied in the British West Indies, on the flour, lumber, &c. of the United States, are absolutely ne-

cessary to afford the inhabitants of His Majesty's North American Provinces a chance of sending their superfluous produce to market, on equal terms with the citizens of the United States. \* These latter enjoy great natural advantages over their Northern competitors, by reason of the open climate, and comparative vicinity of their country to the West India Islands. The sugar of the British West Indies, their principal export, has, besides, to pay in the United States an import duty proportionally higher than the duty levied on American flour, in the ports of the British Colonies.

On the specific grounds, then, alleged by the American Plenipotentiary, the above mentioned stipulation cannot be accepted by Great Britain, without injustice to her own subjects, any more than it can be accepted by her on general principles, without prejudice to her character as an independent, commercial Power. Much as the British Government are disposed to cherish and improve the relations of commerce and good neighbourhood with the United States, such sacrifices cannot, in fairness, be expected, even for the sake of those objects.

Still less are they to be expected, when the statements of the British Government, in answer to those of the American, are fully borne out by the state, as hitherto ascertained, of the trade carried on under the respective laws of the two countries.

There is reason to suppose, that about two-thirds of the flour and lumber received from North America by the British West Indies, are produced by the United States; and it is not too much to say, that

even seven-eighths of that quantity are conveyed to the market in American vessels, while, even upon the return trade, it appears that American vessels enjoy a share not greatly superior to that proportion.

Under these circumstances, the British Plenipotentiaries can only accept the articles on commercial intercourse, tendered to them by the American Plenipotentiary, with the omission of the stipulation already specified.

With every disposition to remove unnecessary obstructions from the trade, and to keep the protecting duties within fair and moderate bounds, no difference whatever being made in point of duties and charges between American and British vessels, whether belonging to the Colonies or to Great Britain, it is impossible for the British Government to admit a condition which would expose their North American Provinces to a total exclusion from the West India market, and that, as they conceive, without any equivalent concession being proposed on the part of the United States.

The British Plenipotentiaries are ready, at the same time, to enter into stipulations, not only for removing all alien charges whatever from the vessels and their cargoes, as such, of both parties, in the United States on one side, and in the enumerated British Colonies on the other, but also for extending to the United States, eventually, and in consideration of a fair return from them, any further advantages, in that trade, which, in the progress of events, Great Britain may find it safe or desirable to concede to any other foreign nation or State, in the trade be-

tween her colonies and its possessions. In making this contingent agreement, it would be the intention of the British Government to apply, in proportion as circumstances might allow, to the trade between His Majesty's open Colonies and the United States, the same principle already adopted in the Convention of 1815; namely, of placing each party, with respect to imports and exports, on the footing of the most favoured nation: and in the same spirit there would be no objection to giving a suitable extension to the fourth article of the Commercial Convention, respecting Consuls.

MR. CLAY TO MR. GALLATIN.

*Extracts from general instructions, No. 1, dated 19th June, 1826.*

"Your predecessor, Mr. Rufus King, purposes leaving London in the month of June, and on that account, as well as on account of the important negotiations with which you are to be solely charged, the President wishes you to lose no time unnecessarily in proceeding to Great Britain. On your arrival there, you will deliver a copy of your credential letter to the Minister of Foreign Affairs, and, on your presentation to the King, you will communicate the original to His Majesty. On that occasion you will express to him the earnest desire of the President to maintain the amicable relations which happily subsist between the two countries; that on the part of this Government, nothing will be omitted to preserve them in full vigour, and, if possible, to add fresh strength to them; and it will give great satisfaction to ex-

perience corresponding dispositions on the other side.

"You will find among the papers now put in your possession, the personal instructions by which you will regulate your conduct. Mr. John A. King, Secretary of the Legation, to whom is allowed the option of retaining that appointment, and who will have been left by Mr. Rufus King in charge of our affairs, if he shall have taken his departure before your arrival, will deliver over to you the records and papers of the mission.

"In communicating the general instructions, by which you are to be governed, the first subject to which I am to direct your attention is that of negotiation, opened by Mr. Rush on the 23d day of January, 1824, and which was suspended on the 22d of July, of the same year, with an understanding between the parties that it was to be renewed at some convenient early period. Owing to circumstances beyond our control, it has not been resumed as soon as the President had wished. Upon Mr. King's arrival last summer in England, he found the members of the British Cabinet dispersed over the Kingdom, and on the continent. His Britannic Majesty was indisposed, as was Mr. Canning also. Mr. King has laboured under ill health, during the greater part of the time of his abode in England. It was not until the autumn that the British Cabinet assembled at London; and the first object which engaged Mr. King's attention was, the state of the mixed commission at Washington, under the tripartite convention of St. Peters-

burg. He was for some time occupied by a correspondence and conferences with Mr. Canning, on that subject, until it was transferred to this city. Moreover, the British Parliament had recently passed laws affecting, in a most important extent, the trade of the British Colonies, in our neighbourhood, the interpretation and practical operation of which, it was desirable to test by some experience. These explanations of the causes of the delay which has arisen in the resumption of Mr. Rush's negotiation, may be made, if you shall find them necessary, to the British Government. That of the United States has not been indifferent to the deep interests, and to the harmony between the two countries, which are involved in the negotiation. And it is satisfactory to reflect, that no prejudice to either party is believed to have accrued from the lapse of time, which on the contrary, will have afforded to both a more ample opportunity of deliberately reviewing the past, and of entering again upon the negotiations under better lights, and with a spirit of mutual conciliation and concession, the best pledge for bringing them to a fortunate conclusion.

We have received information that Mr. Huskisson and Mr. Addington, formerly the British, *Charge d'Affaires* at Washington, have been named to conduct the negotiation on the part of the British Government, which has intimated an expectation that, on our side, there would also be two Commissioners. In not conforming to that expectation, no disrespect is intended to the British Govern-

ment. It belongs to every nation to determine for itself, what shall be the number, and to designate the particular individuals, to whom it chooses to commit the conduct of its foreign negotiations. Nor has the practice been uniform to employ the same number on each side. Great Britain does not, indeed, insist upon the appointment of two, as a matter of usage or of right. In appointing you alone, this Government is influenced by the confidence which it reposes in you, and by considerations of economy and expediency."

"4. The trade between the United States and the British American colonies.

You will recollect that the British Government declined treating on this subject, in the negotiation which resulted in the convention of 1815. That convention left each party at liberty, by his separate acts, to regulate the trade according to the view which he might entertain of his own interests and policy. Accordingly, the Government of each has since adopted various measures, which have so restricted and embarrassed the intercourse between the United States and the British colonies, that it is almost impossible to comprehend them, and the officers of the British Government have not concurred in the construction of the last act of the British Parliament in relation to the subject. This act has been differently interpreted, both in the same British port, and in different British ports. A principal object of those measures has been, on the British side, to secure and perpetuate a monopoly of the



navigation concerned in the trade, and, on ours, to obtain a fair and equal participation of it, on terms of just reciprocity. The experience of both has been such, that it ought to inculcate on their respective councils moderation and liberality.

Mr. Rush submitted, in the progress of his negotiation, at the third conference, two articles for the regulation of this trade, which were not accepted by the British Plenipotentiaries. These articles embraced three leading principles: 1st. That there should be a mutual abolition of all discriminating or alien duties, so as to place British and American vessels employed in the trade, and their cargoes, on a footing of perfect equality; 2d, That the productions of the United States, admitted into a British colony, should be subjected to no higher duties than similar productions of another British colony; and 3d, That the trade should remain restricted as it then was by the acts of Congress and Parliament, according to which it was limited to a *direct* intercourse. The British Plenipotentiaries were willing to accede, in behalf of their Government, to the first and third, but not to the second of those principles; and they brought forward, at the sixteenth conference, a counter-projet, consisting of six articles. On the 27th day of June, and the 5th day of July, 1825, the British Government passed two acts, the first of which is entitled “An act for further regulating the trade of His Majesty’s possessions in America and the West Indies, and for the warehousing of goods therein,” and the second, “An

act to regulate the trade of the British possessions abroad.” According to these acts, the discrimination between Great Britain and her American colonies, as being subject in regard to foreign nations, to different commercial codes, is in some degree abolished; and they are incorporated, to a considerable extent, together, and their trade thrown open to foreign nations. The legislation of Great Britain for her colonies has been very complicated, and we may not have a just conception of the provisions of those two acts. But, if they are correctly understood here, they allow, 1st, That whatever may be lawfully imported into those colonies, in British vessels, may also be imported in foreign vessels, into a specified number of ports, called free ports, at the same rate of duty for the vessel and cargo; 2dly, That the foreign vessel is restricted to a direct intercourse between the country to which it belongs and the British colony, adhering, in this respect, to the old principle of her navigation laws. In some of their provisions, particularly in the imposition of duties on articles of American produce, which was before free, (Indian meal and Indian corn, for example,) these acts operate more prejudicially to us than the previous state of the British law. But, notwithstanding, on a full consideration of the whole subject, the President, anxious to give a strong proof to Great Britain of the desire of the Government of the United States to arrange this long contested matter of the colonial intercourse, in a manner mutually satisfactory, authorizes you to agree—

1st, That there shall be a reciprocal and entire abolition of all alien or discriminating duties upon the vessel or cargo, by whatever authority imposed, so as to place the vessels of the United States and those of Great Britain, whether colonial or British, concerned in the trade, upon a footing of perfect equality and reciprocity.

2d, That the United States consent to waive the demand which they have heretofore made, of the admission of their productions into British colonies at the same, and no higher, rate of duty, as similar productions are chargeable with when imported from one into another British colony, with the exception of our produce descending the St. Lawrence and the Sorrel. It will not be necessary, however, to insert the general waiver in the convention, but only to provide for the exception, if that should be agreed to as herein before mentioned ; and

3d, That the Government of the United States will not insist upon a participation in the direct trade between the United Kingdom of Great Britain and Ireland and the British American colonies. But they do expect and require, that their vessels shall be allowed to trade between those colonies and any foreign country with which the British vessels are allowed to trade. In agreeing to leave Great Britain in the exclusive possession of the direct trade with her colonies, the President is sensible that our navigation may be exposed to some disadvantage in its competition with the British. The latter may make double voyages, charged with mixed cargoes from the parent coun-

try, or from the United States and the Colony. But the disadvantage would be so great as to render it impracticable that we could maintain any thing like a fair competition, if British vessels, at the pleasure of their owners, were, and ours were not, permitted to share in the trade between the British colonies, foreign countries and the United States. Perhaps Great Britain may ask, if we trade between British colonies and foreign countries, that British vessels should be allowed to export the produce of the United States to those countries, or to import foreign produce from them into these States. There would be some plausibility in such a demand, if it were confined to colonial vessels, and if there could be devised any adequate security against fraudulent denominations of British *European* vessels, bestowed to qualify them to enjoy the privilege of trading between the United States and foreign countries, through British colonies. It is evident that, without such a limitation efficaciously enforced, (which is believed to be altogether impracticable,) there would be no equivalent, for a privilege to all British vessels, European and colonial, of sharing in our trade with all foreign countries, in the limited privilege to American vessels, of sharing the trade between those countries and British colonies. Your discussions on this subject may take such a direction as to present a favourable occasion for testing the extent to which the British Government is disposed to carry the modern liberal commercial doctrines, which it professes, and has proclaimed to the world.

With that view, and for settling at once all difficulties on the question, whether the vessels of the United States shall be permitted to engage in the trade between the British American colonies and foreign countries, you are hereby authorized to propose, as a general regulation, applicable to the British dominions in Europe as well as in this hemisphere, or wherever situated, that whatever can be lawfully imported into one country, in its own vessels, may be also imported into it, in the vessels of the other country, the vessel and the cargo paying, in both instances, the same and no higher or other duties. This will leave the capital and industry of the two nations concerned in navigation, to a free competition, upon equal terms; and that is understood to be the policy which the British Government has recently announced. On this broad and extensive principle, a treaty with the Republic of the Centre of America was concluded on the sixth of December last, and was subsequently ratified by the President, with the advice and consent of the Senate, it is believed given unanimously. We have not yet heard of its ratification by the other party, and of course its promulgation at present would be premature, but a copy of it is now placed in your possession. A treaty with Denmark, embracing the same principle, under some modifications and limitations, was signed at Washington on the 26th day of April of the present year, to the ratification of which the Senate has also consented and advised with equal unanimity. Sufficient time has not yet elapsed to receive the Danish

ratification, but a copy of this treaty is also confided to you. If Great-Britain will assent to neither principle; if she insist upon engrossing the whole trade, not only between her colonies and her European dominions, but also between those colonies and foreign countries, to the exclusion from both of the navigation of the United States, it will then be necessary to insert a clause in the convention expressly reserving to each party the right, by existing or other laws, to restrict the trade between the United States and the British colonies to the direct intercourse between them.

“ You will observe that the instructions now given, respecting the colonial trade, amount to an authority on the part of this Government to you, to agree in substance to the modification of Mr. Rush's proposal, which was required by the British Plenipotentiaries. You will endeavour to make a lively impression on the British Government of the conciliatory spirit of that of the United States, which has dictated the present liberal offer; and of their expectation to meet, in the progress of your negotiations, with a corresponding friendly disposition. The object of this part of your instructions may be accomplished, either by inserting the articles respecting the colonial trade in the general convention for regulating the commerce between the two countries, which would be their most fit position, or in a separate convention. Whether the two articles proposed by Mr. Rush, or the two first, proposed by the British Plenipotentiaries, or others differently constructed, should be

inserted in the convention which you are empowered to conclude, will depend upon the footing on which you may ultimately agree, under your instructions, to place the colonial trade. If you should not be likely to bring your negotiations, on the entire subject of the commerce between the two countries and their respective territories to a conclusion, in time to present the convention, in which it is expected they will issue, to Congress during its next session, it will be desirable, and you are accordingly directed to endeavour to make a separate arrangement of the colonial question, so as to enable the President at least to present that, before the adjournment. As to the duration of any general or particular commercial convention to which you may agree, it may be limited to a period of about ten years; to which it is advisable to add an article similar to the eleventh article of our Danish treaty, stipulating that the convention shall continue in force beyond the particular period agreed upon, until one party notifies the other, in writing, of his desire to put an end to it."

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MR. GALLATIN TO MR. CANNING.

62, *Upper Seymour-street*,  
26th August, 1826.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, had not seen the order in Council, of the 27th of July last, on the day (the 17th instant) when he had the honour of an interview with Mr. Canning, His Majesty's principal Secretary of State for Foreign Affairs.

Had he then been aware of the precise import of the order in ques-

tion, and of the provisions of the several acts of Parliament to which it refers, the undersigned would have thought it his duty to make the observations, to which he now begs leave to call Mr. Canning's attention.

It appears that His Majesty's Government was vested with two distinct authorities, applicable to the intercourse between His Majesty's Colonies and the United States.

By the 4th section of the act of Parliament, of the 5th July, 1825, it was enacted that the privileges granted by the law of navigation to foreign ships, to trade with the British possessions abroad, should be limited, with respect to countries not having colonial possessions, to the vessels of such as should place the commerce and navigation of Great Britain, and of her possessions abroad, upon the footing of the most favoured nation, unless His Majesty, by his order in Council, should in any case deem it expedient to grant the whole, or any part, of such privileges to the ships of any foreign country, although the said conditions should not in all respects be fulfilled by such country.

And, by two other acts of Parliament, passed in the fourth and fifth years of the reign of his present Majesty, authority was given to levy additional or countervailing tonnage duties on vessels, and additional or countervailing duties of customs, on goods imported or exported in vessels belonging to any foreign country, in which higher duties were levied on British vessels, or on goods imported or exported in British vessels, than on vessels of

such country, or on similar goods when imported or exported in vessels of such country.

Both authorities have been resorted to in the order in Council of 27th July last.

On the ground that the condition referred to in the act of Parliament of 5th July, 1825, having not in all respects been fulfilled by the Government of the United States, the privileges so granted to foreign ships cannot lawfully be enjoyed by ships of the said States, unless specially granted by His Majesty in Council, the said privileges are again thus granted by the order in Council, but with the express proviso that the said privileges, or, in other words, the intercourse in American vessels between the United States and the British Colonies, shall absolutely cease on the 1st of December next, so far as respects South America, the West Indies, the Bahama Islands, Bermuda, and Newfoundland, and, on some other subsequent days, so far as respects the British possessions on the Western Coast of Africa, the Cape of Good Hope, Mauritius, Ceylon, New Holland, and Van Dieman's Land;

And, inasmuch as British vessels entering the ports of the United States, from the British Colonies, are charged with additional tonnage duty of ninety-four cents per ton, and with an addition of ten per cent. on the import duty payable on the same goods when imported in American vessels, a countervailing duty, deemed equivalent in amount, is, by the order of Council, laid, during the time that the intercourse is permitted to continue, on Ameri-

can vessels, and on goods imported in American vessels entering the ports of His Majesty's possessions in North and South America, and in the West Indies.

There is not, if the undersigned is rightly informed, a single act of the Government of the United States which can, in the view taken of the subject by that of His Majesty, be considered as not fulfilling the condition contemplated by the act of Parliament of 5th July, 1825, as not placing the commerce and navigation of Great Britain, and of her possessions abroad, upon the footing of the most favoured nation, excepting only the continuance of the discriminating tonnage duty of ninety-four cents per ton on British vessels, and of the addition of ten per cent. on the ordinary duty charged on goods imported in British vessels entering the ports of the United States from the British Colonies. Both the measures embraced by the order in Council, the countervailing duties and the discontinuance of the intercourse, are founded on one and the same fact, the continuance of the United States' discriminating duties. And the countervailing duty, deemed equivalent thereto, which has by the order in Council been laid on American vessels, and goods imported in American vessels entering the ports of the British Colonies, was alone sufficient to place the British and American vessels, employed in the intercourse between those Colonies and the United States, on the footing of the most perfect equality.

It does not belong to the undersigned to question the policy of.

the measures which Great Britain may think proper to adopt respecting the trade with her colonies.

He only infers, from the acts of Parliament passed on that subject during the last four years, that the intercourse between the United States and the British colonies in the West Indies, South America, and other places, to the extent authorised by those acts, is considered by His Majesty's Government as beneficial to those colonies and to the British Empire at large.

With this conviction, and the only inequality supposed to exist having been removed by the countervailing duties, the undersigned has been unable to discover the motive for interdicting altogether, after a short time, so far as respects the British possessions in the West Indies, South America, and several other places, an intercourse beneficial to both parties, and which might, in conformity with the act of Parliament, have, if deemed expedient, been indefinitely continued with those colonies, in the same manner as has been done, as respects the British possessions of North America.

Wholly unable, therefore, to assign a cause for the contemplated suspension of the intercourse in question, the undersigned apprehends that, for the very reason that the object in view cannot be understood, it may be misconstrued.

Having no instruction on a contingency which was not foreseen, he can, at this time, only express his regret, that a measure which cannot be viewed favourably by his Government, should have been adopted, at the moment when he

was authorized to renew the negotiations on that subject, and with a well-founded hope, from the liberal tenor of his instructions, that an arrangement, founded on principles of mutual convenience to both parties, might be concluded.

It is well known that the delay in that respect was due to causes not under the control of the United States, principally to the state of health of Mr. King, which has ultimately deprived them of his services.

The reasons of the marked preference given by the Government of the United States to an arrangement by treaty, instead of regulations adopted by both countries, are sufficiently obvious. It is highly important for all the parties concerned, essential for the security of commercial or agricultural operations, that the intercourse should be placed on a more permanent and explicit footing than it can be by reciprocal laws, liable to be modified or revoked at any time, at the will of either party, and not always easily understood by those on whom they operate. And the obstacles which have prevented the United States from accepting the intercourse contemplated by the act of Parliament, which could only be done in toto, and by complying with terms on which they had not been consulted, may, it is believed, be easily removed by modifications essential to them, and which will not, it is thought, be found inconsistent with the interest of Great Britain.

The undersigned has taken a view only of the general tenor of the order in council, and does

not think it necessary to advert to some of its details. He believes the omission of a special mention of the trade with the British provinces in the East Indies, in that clause which makes a special exception as respects that with the British possessions in Europe, to be purely accidental. And he takes it for granted, that it is not intended to extend the counter-vailing duties to the intercourse by land or inland navigation, between the United States and the British possessions in North America, if it shall be found, as the undersigned believes it to be the fact, that the discriminating duties of the United States do not apply to that intercourse.

The undersigned avails himself of this opportunity to pray Mr. Canning to accept the assurance of his perfect consideration.

*Albert Gallatin.*

*The Right Hon. George }  
Canning, &c. }*

MR. CANNING TO MR. GALLATIN.

The undersigned, His Majesty's Principal Secretary of State for Foreign Affairs, has the honour to acknowledge the official note, of the 25th ultimo, addressed to him by Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, on the subject of an order in council, issued by His Majesty on the 27th of July.

The undersigned feels himself greatly indebted to Mr. Gallatin for the full and frank exposition, which that note contains, of his own opinions, and of those of his Government, upon the whole matter to which the order in council relates; and for the opportunity

thereby afforded to the undersigned for entering into an explanation, equally unreserved, of the opinions and intentions of His Majesty's Government on that matter.

It will be highly advantageous to "pose at once of a subject which stands apart from all the other important subjects which Mr. Gallatin is authorized to discuss with the British Government—a subject, which is to be argued on principles, and to be decided on considerations, peculiar to itself.

Mr. Gallatin will allow the undersigned to take the liberty of remarking, that this peculiarity of character seems to have been overlooked by Mr. Gallatin, in his note of the 25th of August. Throughout that note there appears to be one pervading error. Mr. Gallatin treats the question as if it had turned altogether on this single point: "what are the equal and reciprocal conditions, under which a trade, between the United States and the British West India colonies, should be carried on?" assuming, as a sort of axiom, that such trade is as open to the United States as any other trade in the world, and never inquiring whether some compensation might not be due from the United States to Great Britain, for the concession of a privilege, which it is her undoubted right to give or withhold.

The undersigned is prepared to shew, that, even if the liberty to trade with the British West India colonies were gratuitously conceded by England to the United States, still the footing on which the trade, so permitted, is now

carried on by the United States, is unequal and unfair.

But as the objection, which the British Government feels to the proposition for such partial equalization of conditions, as Mr. Gallatin's instructions appear to be intended to establish, lies deeper than Mr. Gallatin's proposition goes, the undersigned thinks it right to explain, in the first instance, the nature and grounds of that fundamental objection.

It is, as the under-signed has already said, the unquestionable right, and it has, till within these few years, been the invariable practice of countries having colonies, to reserve to themselves the trade with those colonies, and to relax that reservation only under special circumstances, and on particular occasions. When a relaxation of that nature has been dictated and limited, by the necessities of the mother country, or of the colonies, the foreign countries taking advantage of it, may fairly aver, that they owed nothing to the State which had granted such relaxation. They may even have felt themselves at liberty to decline to accept of a partial admission into the ports of the colonies, thus evidently opened from considerations of local or temporary convenience, unless they were allowed a general liberty of the trade with those colonies, independently of such considerations.

The interdiction of the American Government, in 1820, of any commerce with the British West India colonies, until American shipping should be permitted a free entry into the British colonial ports, is to be justified upon this ground.

The obvious way of meeting that interdiction by Great Britain, would have been to open to other commercial and maritime Powers the trade refused by the United States.

Circumstances, not necessary to be detailed here, rendered that expedient, at that time, unadvisable.

In 1822, the privilege of trading with the British West Indies was conceded to the shipping of the United States, with certain restrictions and limitations, under which they were content to enjoy it; but that privilege Great Britain still withheld from all the Powers of Europe.

The concession to the United States was, in effect, if not in words, exclusive: for the new countries of America, (not then recognized by His Majesty,) had no commerce or navigation which could interfere with those of the United States.

It cannot, however, be supposed, it is not affirmed by Mr. Gallatin, that, by granting the privilege, thus, in effect, exclusively, to the United States, in the first instance, Great Britain precluded herself from extending it to other nations, whenever the course of events should create a favourable occasion for doing so. Events, which intervened between 1822 and 1825, created such an occasion.

As little can it be supposed, that, because Great Britain submitted, at a moment of necessity, to terms which, though not unjust, were inconvenient to her, she bound herself to continue to submit to them when that necessity should have passed away.



Scarcity may justify the demand for a high price, and monopoly may give the power of exacting it; but there is surely no understood compact between the buyer and the seller, that the former shall not endeavour to make himself independent of the latter by opening the market to general competition.

These obvious and simple considerations led to the act of Parliament of 1825.

Our right either to open the ports of our Colonies, or to keep them closed, as might suit our own convenience; our right to grant the indulgence of a trade with those Colonies to foreign Powers, wholly or partially, unconditionally or conditionally, as we might think proper, and if conditionally, on what conditions we pleased, was clear. We were not bound by any engagement to continue a monopoly of such indulgence to one foreign Power against another. We had for three years felt the inconvenience of such monopoly. We naturally sought, therefore, in our new measure, to avoid the recurrence of the like inconvenience, by making our indulgence general to all nations; and, in order to keep the regulation of that indulgence in our own hands, we granted it by spontaneous legislation, and not by positive treaty.

The question is now, therefore, no longer what it was in 1820 or 1822, a question between Great Britain and the United States of America; it is a question between Great Britain and all the nations of the old and the new world, to all of whom Great Britain has tendered access to her

Colonies, on conditions which many of them have practically accepted, and more perhaps are ready to accept.

Having thus placed (as he hopes) in a clear light, the general principles of Colonial trade, and the principles and considerations upon which Great Britain has acted in respect to her own West India Colonies, the undersigned now proceeds to consider the details of Mr. Gallatin's note of the 26th of August.

It has been already said, that, in the year 1822, we opened, by act of Parliament, a trade with our West India Colonies to American ships, under certain limitations and conditions.

The United States were at full liberty to accept or to decline those terms.

In accepting them, the United States imposed, at the same time, onerous charges and restrictions upon all British vessels which might trade between the British West India Colonies and the United States. One of these charges is an *alien* duty both upon the ship and upon her cargo.

After ineffectual endeavours, on our part, to obtain the removal of this duty, we were compelled to lay a countervailing duty to the same amount, upon American ships in the Colonial ports.

Mr. Gallatin states, "that by the imposition of this countervailing duty, British and American vessels employed in the intercourse between the British Colonies and the United States, *are placed on a footing of the most perfect equality.*" And further, that there is not, if he is rightly informed, a single act of the

Government of the United States which can, in the view taken of the subject by that of His Majesty, be considered as not fulfilling the condition contemplated by the act of Parliament of the 5th July, 1825, as not placing the commerce and navigation of Great Britain, and of her possessions abroad, *upon the footing of the most favoured nation*, excepting only the continuance of the discriminating tonnage duty of ninety-four cents per ton on British vessels, and of the addition of ten per cent. on the ordinary duty charged on goods imported in British vessels entering the ports of the United States from the British Colonies."

The arguments drawn by Mr. Gallatin from these statements are three: first, that the duty on the side of the United States, and the countervailing duty on the side of Great Britain being equal, British ships trading between the Colonies and the United States are as much favoured as American ships in the same trade: secondly, that, inasmuch as, with the exception of the discriminating duties in America, Great Britain is, *in all other respects*, treated as "the most favoured nation," there is no just cause for the exercise, on the part of Great Britain, of the power of interdiction provided by the act of 1825: and thirdly, that, having in our hands *two* remedies for *one* and the same grievance, we ought at all events to have contented ourselves with applying either, but not both, by the same order in council.

To begin with the last of these three points, viz. the assumption that "having in our hands *two*

remedies for *one* grievance, we ought to have been contented with applying either, but not both, by the same order in council."

The only measure which is *new* in the order in council, is the interdiction of the trade between the British West India colonies and the United States, after a specified period. The duties on American shipping, mentioned in that order, are not *new*. They were imposed by an order in council in 1823, and have been constantly levied since that time. They are again mentioned in the present order in council, only for the direction of the British custom house officers in the West Indies, who, if those duties had not been mentioned as still existing, might have imagined them to be superseded.

The history of these duties is simply this. On the first of March, 1822, a law was passed by the United States, which directs an *alien* duty to be levied upon British ships and cargoes coming from the British West India colonies, "until proof shall be given, to the satisfaction of the President of the United States, that no other or higher duties of tonnage or impost, and no other charges of any kind are exacted in the British colonial ports, upon the vessels of the United States, and upon *any goods, wares, or merchandise, therein imported from the United States*, than upon British vessels entering the same ports, and upon the like *goods, wares, and merchandise, imported in such vessels from elsewhere*."

The British Government, at first, misapprehended the import of the term "*from elsewhere*,"

conceiving it to apply to foreign countries alone, and not to British possessions in North America, nor was it till after the interchange of several official notes between the British Envoy at Washington, and the American Secretary of State, that the British Government was made to comprehend, (or rather was brought to believe) the full extent of the concession required by act of Congress, namely, that the produce of the United States, when imported from the United States into the British West India colonies should be placed on an equal footing with the like produce of the *mother country herself and her dependencies*.

When such was at length ascertained to be the true construction of the American act of Congress of 1823, those countervailing duties were imposed on the trade of the United States by the British Government; which are now merely continued till the 1st of December next, in the West Indies, and indefinitely in the ports of British North America.

It is to be observed that, by the act of Parliament, of 1822, (3 Geo. IV. cap. 44.) the British Government was enabled to *interdict all intercourse* between the United States and the British West India colonies, under any such circumstances as those which had already arisen in the United States.

The milder measure of a retaliatory duty was preferred, for two reasons: First, we were convinced that a claim so extraordinary as that put forward by the interpretation given to the act of Congress, of 1823, would not be persevered in after explanation; and, secondly, we had assurance

that a full opportunity of that explanation would arise in the course of the negotiation which was then about to be opened between the two Governments on this, among other points, in which their respective interests were concerned.

That negotiation took place in London, in the spring of 1824. On the part of the British Government an offer was made to arrange this matter upon terms highly favourable to the United States, but the American Plenipotentiary intrenched himself within the letter of the American law, and declared any proposal inadmissible which was not accompanied with the concession required by the final interpretation of that law.

Things remaining in this state, and the British proposition having been unnoticed for nine months before the American Government, the act of Parliament of July, 1825, was passed.

The American Legislature had cognizance of that act from the commencement of its last Session. It had also cognizance of the specific proposals offered by the British Government in 1824. Farther, there was brought under its consideration, by one of its members, a resolution for repealing the discriminating duties.

The Session, however, ended, without the enactment of any law for repealing or relaxing the restrictions of the act of Congress, of 1823, and with the rejection, after debate, of the resolution for the repeal of the discriminating duties.

To come next to Mr. Gallatin's allegation, that the discriminating duties are our *only* cause of com-

plaint; that *in other respects*, Great Britain is placed by the United States on the footing of *the most favoured nation*, in her intercourse between her West India colonies and the United States.

Mr. Gallatin, in making this averment, appears to overlook another enactment contained in the same act of Congress, which imposed the discriminating duties; an enactment hardly less injurious to the commerce and navigation of Great Britain. That enactment, in substance, provides, that no British ship entering an American port from the United Kingdom, or from any other British possession, except directly from the West India colonies, shall be allowed to clear from any port of the United States for any of those colonies.

If it is intended to be maintained that, because the British act of 1822 permits only a direct trade between our colonies and the United States in American ships, the prohibition of a trade through the United States between the mother country and her colonies is, therefore, fair reciprocity, that position resolves itself in effect into the first of the three arguments into which Mr. Gallatin's statement has been divided, and may be comprehended in the same answer. It furnishes a striking illustration of the general misconception which has already been noticed as pervading Mr. Gallatin's note, in respect to the character of colonial trade.

To allow a foreign ship to enter colonial ports at all, and upon any terms, is a *boon*; to withhold from a ship of a country having colo-

nies, trading from the mother country to a foreign State, under a regular treaty between the two countries, the right of clearing for another port belonging to that mother country in another part of the world, is *an injury*.

That right has been denied to Great Britain by the United States; not perhaps in contradiction to the letter, but undoubtedly in deviation from the spirit of the treaty of 1815. It is a right which existed, and was enjoyed before the treaty of 1815 was framed; at a period, that is, when no claim to any trade with our colonies had been even whispered by the United States; and it could not, therefore be, by any just reasoning, connected with that trade, or made dependent upon it. It is a right which friendly nations, trafficking with one another, are so much in the habit of allowing to each other, that it is exercised as matter of course, unless specifically withholden. The colonial trade, on the contrary, by the practice of all nations having colonies, is a trade interdicted, as a matter of course, unless specifically granted.

It must not be forgotten that this enactment, founded professedly on the limitations of the British act of Parliament of 1822, is continued fourteen months after the passing of the British act of 1825, by which the limitations of 1822 were done away. Since which 5th of January, 1826, an American ship trading to a British West India colony, may clear out from thence to any part of the world, the United Kingdom and its dependencies alone excepted. But,

the British ship in the American port still remains subject to all the restrictions of the American law of 1823, prohibiting a trade through the United States, between the mother country and her West India colonies.

Mr. Gallatin, in his note of the 26th of August, states: that "it is well known that the delay in renewing the negotiation upon the subject of the colonial intercourse, on principles of mutual accommodation, is due to causes not under the control of the United States, principally to the state of the health of Mr. King."

Upon this point the undersigned has only to observe, that no intimation that Mr. King had received instructions which would have enabled him to resume the negotiation, was ever before communicated to the British Government. On the contrary, the only communication at all relating to this matter which has ever reached him in any authentic shape, was in a despatch from Mr. Vaughan, dated the 22d of March last, wherein that Minister states: that "Mr. Clay had informed him that *he should not be able to furnish Mr. King with his instructions before the end of the month of May*, to enable him to recommence the negotiation."

But, whatever may be the date or tenor of the instructions under which Mr. Gallatin acts, he will have collected from this note that, after all that has passed upon the subject of colonial intercourse, and especially after the advised omission by the Government and Legislature of the United States to meet, (as other nations have done,) the simple and direct provisions of the act of 1825, the Bri-

tish Government cannot consent to enter into any renewed negotiation upon the intercourse between the United States and the British colonies, so long as the pretension recorded in the act of 1823, and there applied to British colonies alone, remains part of the law of the United States.

But the British Government further owes to the spirit of frankness which it wishes to cultivate in all its relations with the United States, to declare, that, after having been compelled to apply to any country the interdict prescribed by the act of 1825, the British Government cannot hold itself bound to remove the interdict, as a matter of course, whenever it may happen to suit the convenience of the foreign Government to reconsider the measures by which the application of that interdict was occasioned.

It is not made matter of complaint by the British Government, that the United States have declined conditions, which other nations have thought worthy of their acceptance.

It is, on the other hand, not the fault of the British Government if the United States have suffered the time to pass by, at which it might have been an object of greater importance to this country to induce the United States to come into their proposals.

The United States exercised upon this point a free judgment; and they can, on their part, have no reason to complain that Great Britain, after allowing ample time for maturing that judgment, is contended to abide the result of their decision.

The undersigned requests Mr. Gallatin to accept the assurances of his high consideration.

*George Canning,*

*Foreign Office, Sept. 11, 1826.*

P. S. The undersigned, on reading over the preceding observations, finds that he has omitted to notice one or two subordinate points touched upon in Mr. Gallatin's note of the 26th of August.

The first relates to the trade between the United States and the British possessions in the East Indies; the second, to the intercourse by inland navigation between the United States and the British possessions in North America.

With regard to the former it is only necessary to state that the trade with the East Indies remains upon the footing on which it was established by the Conventions of 1815 and 1818, with which Conventions it is expressly stated in the order in council, that the provisions of that order are not intended in any way to interfere.

In respect to the second point, relative to the intercourse by inland navigation between the United States and the British North American provinces, the undersigned begs to inform Mr. Gallatin, that that intercourse, so far as relates to the Canadas, is regulated by the act of Parliament of 1825, by which the same duties are expressly imposed on the vessels and boats of the United States, importing any goods into either of those provinces, as are, or may be for the time being, payable in the United States of America, on British vessels, or boats entering the harbours of the State from whence such goods shall have been imported.

The discriminating duties, besides, only apply to trade by *Sea*:—and if, in any instance, they have been levied upon American goods brought into His Majesty's possessions by inland navigation, or on the boats and vessels employed in that navigation, there will be no difficulty in directing the amount so levied to be repaid, unless it should appear that the like duties had been levied in the American ports, upon the inland navigation and trade of the British Provinces. G. C.

MR. GALLATIN TO MR. CANNING.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, has the honour to acknowledge the receipt of the note of the 11th instant, addressed to him by Mr. Canning, His Majesty's principal Secretary of State for Foreign Affairs, in answer to that of the undersigned of the 26th ultimo, on the subject of the Order in Council of the 27th of July.

The undersigned apprehends that the object of his note of the 26th ultimo, may not have been altogether understood. It was not his intention to make on that occasion a full exposition, much less to argue in support of either his own opinions or those of his Government, upon the whole matter to which the Order in Council relates.

His opinion of the character of the Colonial trade did not enter into the view he was taking of the subject. He is not aware to have expressed that of his Government upon any other point than that of the preference it gave to an ar-

rangement by treaty, to regulations respectively enacted by each Country.

The arguments ascribed to him seem to be rather inferences to which he might not have objected, did he not feel bound to disclaim any intention on his part to have suggested what the British Government *ought* to have done; an expression applicable only to the case of an alleged violation of a positive or implied obligation.

The object of the note of the undersigned was simply what it purported to be: to express his regret that, under existing circumstances, the Order in Council should have been issued: and to avow his inability to discover its motive. This has now been frankly and distinctly explained by Mr. Canning. And the principal error which pervades the note of the undersigned, is, that he had supposed that the intercourse between the United States and the Colonies of Great Britain was still considered as beneficial to her; that he was wholly unaware that the interdict on that intercourse in American vessels was founded in considerations of a general nature, and connected with an intention not to renew, at least for the present, the negotiations on this subject.

It is true, that the undersigned had overlooked the fact, that, since the 5th of January, 1826, the indirect intercourse was allowed in American, and forbidden in British vessels; and, to that extent, his assertion of a perfect equality existing between the vessels of both nations was erroneous: though, in reality, the want of equality in that respect may have been compensated by other restrictions and

charges imposed on American vessels.

The undersigned has it not in his power to assign the reasons why the provisions of the act of Congress, of 1823, relating to that indirect intercourse, have been continued in force, after the corresponding restrictions of Great Britain had been removed, so far as related to foreign countries. It is not improbable that the attention of the Government of the United States having been principally turned to the general question, whether it was not most eligible that the trade should be regulated by treaty, or by the respective laws of the two countries, the fact that this particular restriction had been thus revoked by the act of Parliament of 1825, may have escaped its notice.

The communication made in the latter part of Mr. Canning's note of the intentions of the British Government, would not seem, considered done, to impose any other duty on the undersigned than to transmit it to his own. But it is accompanied by various observations, one of which at least has almost the appearance of a charge against the Government of the United States, and it may not be improper for the undersigned to avail himself of the opportunity thus afforded, once more to state the view of the whole subject, which is entertained by the United States.

Great Britain asserts as clear, and undoubted, the right to give to the United States, or to withhold from them, the privilege of trading with her West India colonies, to reserve to herself that trade, and generally to open the ports of those colonies to foreign Powers, or to keep them

closed, as may suit her own convenience, wholly or partially, unconditionally or conditionally, and if conditionally, on what conditions she pleases.

As an abstract and general proposition, the right is not denied: but considered purely as a matter of right, this, which is an attribute of Sovereignty, applies to all other territories as well as to colonies.

Every nation has the abstract right generally, and not in reference to her colonies alone, to close or to open her ports to foreign vessels or merchandise, and to grant the indulgence wholly or partially, conditionally or unconditionally. This right has been, and continues to be, exercised occasionally by every nation, in the shape of navigation, prohibitory, and restrictive laws, operating equally on different nations.

The real distinction between the trade of foreigners with colonies, and that with other territories, seems to consist not in a greater or less complete right, but in a difference in the usage and practice. It has long since been found that, if commerce with foreign nations was advantageous, it was necessary, in order to enjoy it, to suffer them to participate in it.

That an exclusive monopoly of the colonial trade was not the best mode of preserving colonies, or of promoting their prosperity, is a recent discovery. But, since the late final separation of the greater part of the continent of America from the mother countries, and now that more enlightened views prevail, as respects the remaining colonies, the former peculiar character of the colonial trade is almost lost. The abstract right being the same, and the an-

cient system of colonial policy having been nearly abandoned, it is difficult to perceive any striking difference between the trade with colonies and that with the mother country.

These are general observations, drawn from the undersigned by the repeated references to an abstract right, which is not questioned, and by the effort to consider still the commerce with colonies as essentially differing from every other. But the intercourse between the United States and the British West Indies, has in fact always been considered by both parties as of a peculiar character, which distinguished it from every other species of colonial trade; and the declarations of the United States to participate in that commerce, are of a much earlier date than Mr. Canning seems to have been aware of.

As early as the year 1783, the Government of Great Britain, deviating from that principle of the colonial system, according to which her colonies were prohibited from trading directly with any other country, allowed her West India colonies to trade directly with the United States of America, in British vessels. This permission had been continued almost without any interruption till the year 1822, when a more extensive change in the colonial policy superseded that partial measure. And during the European War, Great Britain found it convenient [not] occasionally, but repeatedly, to open her West India ports to American vessels; at the same time that she was asserting the principle uniformly denied by the United States, that a neutral was not authorized by the laws of na-



tions, to carry on in time of war a trade with a colony, in which he was not permitted to participate in time of peace.

Had Great Britain, adhering to her colonial system, interdicted the intercourse altogether, and always, in war as in peace, in British as well as in American vessels, no claim on that subject would or could have been advanced by the United States. But that trade *having been allowed by Great Britain*, it may be said, from the beginning, and at all times, became thereby so far assimilated to that with her European dominions, that the United States did think that they had the same claim to a participation in both. The serious difficulties in which they were involved more than once, by the pretensions of Great Britain, to adhere to what has been called the rule of the seven years war, rendered it also questionable whether it might not be better policy to reject, in time of war, a trade which was not allowed in time of peace, or to claim, in time of peace, that which was allowed in time of war.

The United States always did believe that the compensation for what Great Britain considers as a concession, as a boon, was found in the advantages resulting to her from the trade itself. And it must not be forgotten, that she, as well as all other nations, participates gratuitously in the trade of countries, which, as colonies, were till lately closed to foreigners, which had they fallen into her hands, would have still been considered as such, and which, by their incorporation with the United States, have been thrown open to the world. Indeed, had Louisiana belonged to any other country, and been its only colony, the admis-

sion therein of British vessels and commerce as contemplated by the Act of Parliament of 1825, would alone have been sufficient to extend to such country the privileges offered on certain conditions by that Act.

Taking all the facts and circumstances which have been stated into consideration, the United States have been of opinion that they might, without violating the regard due to the usages and opinions of others, claim to treat on that subject as on that of any other commercial intercourse, and on the basis of equal and reciprocal conditions.

The claim has accordingly been brought forward, and considered by both parties as a fit subject for negotiation, from the time when any of a commercial nature first commenced between the two countries.

An article on that subject made part of the treaty of 1794, but was found so inadequate, and was accompanied by such restrictions and conditions, as to induce the United States to reject it at the risk of losing the whole treaty.

The sixth article of the unratified treaty of 1806, stated that: "the high contracting parties, *not having been able to arrange at present, by treaty*, any commercial intercourse between the territories of the United States and His Majesty's Islands and ports in the West Indies, agree that, *until that subject shall be regulated in a satisfactory manner*, each of the parties shall remain in the complete possession of its rights in respect to such an intercourse." A similar reservation of rights made part of the Convention of 1815, renewed and prolonged in 1818.

In the negotiation of 1818, and in every subsequent one relating to the colonial intercourse, the determination of the United States, to conclude no arrangement unless founded on a fair reciprocity, has been distinctly avowed. The undersigned had always understood, that however differing as to the extent of the intercourse and other important points, that basis had not been objected to on the part of Great Britain.

Every article indeed proposed then or since by her, has the appearance of that character: and the preamble of the counter-project offered on the 4th of June, 1824, by the British Plenipotentiaries, states, that "His Britannic Majesty and the United States of America, being desirous to regulate, by mutual agreement and on *principles of just reciprocity*, the trade now open under their respective laws, between the United States and the British colonies in North America, and the West Indies, have," &c.

The third proposed article again declares it to be "the desire and intention of the high contracting parties to place the trade in question on a *footing of just reciprocity*."

It is believed that the difficulties which have prevented an arrangement satisfactory to both parties, have been wholly unconnected with questions of abstract right; that they may, especially at first, have arisen in part from a reluctance, on the part of Great Britain, to depart too widely from her colonial policy; that, so far from being due to any objection to the principle of reciprocity, they had lately originated principally in a mutual apprehension that the

proposals of the other party were a departure from that principle. The failure of an attempt to make an amicable arrangement, left each party to pursue its own course. And the natural consequence has been, that the measures adopted by either may not have been always satisfactory to the other; that occasionally they may have been carried beyond what the occasion required. A discussion of all that has been done in that respect on both sides, would at present be unprofitable. The undersigned will confine his observations to those enactments which appear to have been most obnoxious to Great Britain, and are to be found in the Act of Congress of 1823.

The first is the provision of that act, whereby discriminating duties on British vessels and merchandise, coming from the British Colonies, were not to cease, until it was ascertained that no higher duties were levied in the said Colonies, on American vessels and merchandise, than upon British vessels and like merchandise imported from elsewhere, that is to say, from other British territories, as well as from other countries. That provision might appear unusual and objectionable, but might have been expected.

The principle was implied in the article proposed by the American Plenipotentiaries in 1818, at which time the object was explicitly stated and discussed: and it was distinctly expressed in another article proposed by the United States, as supplementary to the Convention of 1818, and delivered on the 13th June, 1819, to Lord Castlereagh by Mr. Rush.

Prior to the time when protecting duties were laid upon American

produce, imported into the British West Indies, the United States had made proposals, intended either to prevent that contingency, or to reserve the right of counter-vailing the protecting by discriminating duties. After the protecting duties had been actually laid by the act of Parliament of 1822, they did, on the same ground, continue those alien duties, which, on account of the other provisions of that act, would otherwise have been revoked.

That claim, on their part, was at all times considered as inadmissible by the British Government. It was always said that every country had a right to protect its own produce, that Great Britain would protect that of her Colonies, that the demand of America was no more founded in reason or usage, than if the British Government should ask that the sugar of her Colonies should be placed by the United States, as respected duties, on the same footing as that of Louisiana.

To this it was answered, that the general principle advanced by Great Britain was unquestionable : but that, so long as she regulated the Colonial trade on principles different from those which she applied to the commerce with her European territories, so long as she did not treat them as integral parts, but as dependencies of her empire, the United States must necessarily consider them, in a commercial point of view, as distinct countries.

Mr. Canning has deemed it necessary to say, that it cannot be supposed that Great Britain had precluded herself from extending to other nations, the privilege of

trading with the British West Indies, in the first instance granted in effect exclusively to the United States : a supposition which certainly never was made. And he has added, that the question was now no longer, as in 1820 or 1822, between the United States and Great Britain, but between her and all the nations of the old and new world, to all of whom she had tendered access to her colonies. Whether this last measure should produce any change in the policy of Great Britain towards the United States, is of course a question for her to decide. As respects them, so far from thinking themselves affected by the opening of the British Colonies to other foreign nations, so far from considering this as interfering with their commerce, or, in any way, as a subject of apprehension, they have hailed that measure as an important step towards that entire freedom of trade, which it is their interest and their avowed wish should become universal. And considering that the British Colonies had been thus in a commercial point of view nearly assimilated to the mother country, and might no longer be viewed as distinct countries, it became one of the principal motives for authorizing the undersigned to desist from the ground heretofore assumed, on the subject of the protecting duties laid by Great Britain on the produce of the United States, imported into her Colonies, and thereby to remove the principal obstacle which had, till then, prevented an amicable arrangement on the subject of the Colonial trade. It is hardly necessary to add, that the instructions which gave that authority,

were drawn at a time when there was not the least expectation, on the part of the Government of the United States, that it was intended by that of His Majesty's to interdict the intercourse, and to decline the renewal of negotiations on that point.

The other enactment of the act of Congress of 1823, on which Mr. Canning has especially animadverted, is that which forbids any British vessel, unless having come directly from the British West India Colonies, to clear from a port of the United States, to any of those Colonies. It is said that *this right has been denied to Great Britain by the United States*, not perhaps in contradiction to the letter, but *undoubtedly in deviation from the spirit of the treaty of 1815*. Such serious charge the undersigned is bound to repel.

The argument adduced in support of that assertion, rests on the gratuitous supposition that the privilege which, before the Convention of 1815, British vessels coming from other ports than the British West India Colonies, enjoyed, to clear from a port of the United States to those Colonies, was a *right* instead of a permission, which indeed was not granted to them especially, but which they had in common with all other vessels, from whatever port they might have come. The United States had the undoubted right to grant or to withhold that permission, and in that, as in every other case where the right was not restricted by treaty, to regulate the intercourse in foreign vessels between their own and foreign territories, of every description, as suited their convenience. And *this general right, which existed*

before the Convention of 1815, was by that compact preserved expressly and without exception as respected the intercourse between the United States and the British West Indies.

The indirect intercourse alluded to is so intimately connected with the trade in general, that a reservation, whereby the United States, whilst allowed to forbid the direct intercourse, would have been bound to permit it to be carried on indirectly in British vessels, would have been useless and nugatory. Since British, having in this respect a decided advantage over American vessels, on account of the circuitous voyages which they may make from England to the United States, and thence to the West India Colonies, it was precisely the branch of the trade against which it was most important for the United States to preserve the right.

That right was actually enforced under the American navigation act of 1818, without being objected to, or being made a bar to negotiations. When the general restrictions of this act were repealed by the act of 1823, this particular provision was in substance retained; and the undersigned understands that His Majesty's Minister at Washington objected to it, not as being a deviation from the Convention, but because he erroneously believed that it had not its counterpart in the acts of Parliament then in force. In 1824 that provision appears to have been adverted to by the British Plenipotentiaries, only for the purpose of remarking that it confined British vessels to a direct trade in the same manner as American vessels were restricted by

the act of Parliament, and even to a greater degree.

It may be here observed, that neither this, nor any other provision of the act of Congress of 1823, would at this time have interposed any obstacle to the favourable issue of a negotiation upon the intercourse between the United States and the British Colonies. But, as respects the preliminary condition, without which the British Government cannot consent to enter into any renewed negotiation on that subject, the undersigned is at a loss how to construe it. It cannot seriously be expected by His Majesty's Government that the United States, even if it had not been mentioned as a preliminary condition, should repeal their restrictions on British vessels, when not only the intercourse is altogether prohibited in American shipping, but when they are with frankness informed that a removal of that interdict will not, as a matter of course, follow such repeal on their part. What renders that allusion to a repeal of the enactments of the act of 1823, still less intelligible, it perhaps only affords an additional proof that both Governments may occasionally overlook some of the provisions contained in the laws of the other, is, that it is provided by the sixth section of that act, that it shall cease to operate if at any time the intercourse in American vessels should be prohibited by a British Order in Council, or act of Parliament, and that, in such case, the acts of Congress of 1818 and 1820 shall revive and be in full force. That contingency has actually taken place. As a natural consequence of the Order in Council, the act of 1823 ceases

to be the law of the United States, after the 1st of December next. And the act which Mr. Canning allows to have been justified, will again revive.

The intercourse, direct and indirect, will then be prohibited by the laws of both countries. Where there is no commerce, there can be no discriminating or other duties. The two countries will again be placed, as respects that intercourse, in the same situation in which they were before the act of Parliament of 1822, and that of Congress of 1823.

If there is any difference, it will consist in this: the right of Great Britain both to decline to negotiate, and to continue her interdict of the intercourse, even if the United States should accede to the conditions of the act of Parliament of 1825, is incontestible. The undersigned begs leave, however, to suggest, that an act excluding the United States from a trade open to the rest of the world, is, as a *permanent measure*, of a different character from a general exclusion of all foreign nations.

The undersigned requests Mr. Canning to accept the assurance of his high consideration.

ALBERT GALLATIN.

September 22, 1826.

TO ALBERT GALLATIN,  
*Envoy Extraordinary and Minister Plenipotentiary of the United States, London.*

*Department of State,  
Washington, 11th Nov. 1826.*

SIR: Agreeably to the intimation given in my letter, under date the 31st ultimo, I proceed to communicate to you the view which has been taken here of the

official note of His Britannic Majesty's principal Secretary of State for Foreign Affairs, addressed to you on the 11th of September last.

If the British Government had contented itself with simply announcing in that note, its determination no longer to treat with that of the United States, on the intercourse with the British colonies, however unexpected by us such a determination would have been, we might have felt ourselves bound silently to acquiesce in the declared pleasure of His Britannic Majesty's Government. Two parties, at least, are necessary to the conduct of any negotiation, and if one absolutely declines treating, the other, of necessity, must abide by his decision. But the British Government, not satisfied with merely communicating the fact of its resolution, no longer to negotiate with the United States, for an arrangement of the colonial trade, which might reconcile the interest and wishes of both parties, brings forward new principles, to some of which we cannot subscribe, and seeks to cast upon us the *blame* of the want of success which has attended past endeavours to effect that object, which we cannot admit. The frankness which has ever characterized all our correspondence with the British Government, requires that our objections to those principles, and our dissent from such an imputation should be respectfully stated. In doing this, I will begin with a brief statement of certain general propositions, which are supposed to be incontestible.

It is the undoubted right of every nation to prohibit or allow

foreign commerce with all, or any part, of its dominions, wherever situated, and whatever may be their denominations, parental or colonial, or the modes of Government in their respective parts. It may prescribe for itself the conditions on which the foreign trade is tolerated; but these conditions are not obligatory upon other nations, unless they, in some form, assent to them. All such conditions, in respect to foreign Powers, are in the nature of proposals which they are as free to accept or decline, as the other party was to tender them. If a nation has colonies it may unquestionably reserve to itself, exclusively, the right of trading with them.

But, it cannot be admitted that, in regard to foreign Powers, there is any thing in the nature and condition of colonies, or in the relation which subsists between them and the country to which they belong, which distinguishes the power of regulating their commerce from that which is exercised over the parent country. That parent country may have its motives of jealousy or policy for a rigorous exclusion of all intercourse between its colonies and foreigners. But the moment it chooses to relax and open its colonial ports to a foreign trade, whether the relaxation is moved by a temporary or permanent interest, or necessity, the right is acquired by foreign States to examine and judge for themselves the conditions on which they are proposed to be admitted, and to reject or accept them accordingly. This right of foreign nations is conceded, in the official note

which I am considering, when the colonial power is urged, by the pressure of immediate wants, to throw open, for a time, its colonial ports, but is denied when it chooses to open them permanently. The right, in both instances, rests upon the same grounds, and that is, that, in all commercial exchanges, national or individual, the parties to them are equal, and have the same independent power of judging each for himself; and there is much more reason, on account of the greater duration of the interest, that the right in question should be exercised in a permanent than a temporary trade.

All commerce is founded upon mutual convenience and advantage. And this principle is equally applicable to a commerce with colonial possessions, and with the country to which they belong, or to any other country. In trading with any colonies, we have no more imagined that a privilege had been gratuitously conceded to us, than that we had made such a concession to the colonial power, in allowing its colonies to trade with the United States. It cannot, therefore, be admitted, that any other compensation is due from the United States to Great Britain for the permission to trade with her colonies, than that which springs from the mutual exchanges which are the object of that and of all commerce. If the prosecution of any given trade be found upon experiment unprofitable to either party, that party will no longer pursue it; and we may safely confide in the discernment of individuals to repress or stimulate adventure according to the loss or gain, which may be incident to it.

The British Government, fully sensible of this salutary law, was supposed, in the recent liberal commercial policy which it professed to have intended, by the example of her homage, to have inculcated its observance upon all nations.

The idea, that the admission into Colonial ports of foreign vessels is a boon granted by the parent country, that is, a benefaction without equivalent, is as new as it is extraordinary. In that intercourse which has been allowed by the British Government between its Colonies and the United States, never fully opened, sometimes entirely closed, and when reluctantly admitted, fettered by numerous restrictions, we recognize any thing but a boon. The leading motive which appears to have actuated the British Government, in respect to the exchange of American and Colonial produce, has been to sell here, what could be sold, if sold at all, no where else so profitably, and to buy of us exactly so much as she could obtain no where else, at least so profitably.

On our side, whenever the trade has been open, there have been no restrictions, as to the objects of exportation from the United States to the British Colonies. An enumeration here of the numerous prohibitions and restrictions on the British side, upon articles both of Colonial and American produce, would extend this paper to a most unreasonable length. And with respect to the transportation of the subjects of this limited trade, the aim of the British Government has been, by all its regulations, to engross a disproportionate share.

This intention was clearly developed in the treaty of 1794, and has been adhered to, with steady perseverance, during the thirty-two intervening years. Such an intercourse deserves to be characterized in any other way than that of a British boon to the United States.

It cannot be admitted, that the fact, that the United States have no colonies, varies the principles applicable to an intercourse with the British Colonies. In the consideration of the conditions on which a foreign trade shall be tolerated, it is of no consequence what name, or what government, a State may choose to bestow on the several parts of its dominions. Some of the territories of the United States are governed by peculiar local forms, altogether different from those of the States of the Confederacy, but we have never contended that this anomaly ought to affect the regulation of our commercial intercourse with foreign Powers. A country having no colonies, may be so situated as to afford the same kind of productions, as both another country and its colonies. And there may be a greater difference in the nature and value of the productions of the two different countries, neither of which have colonies, than exists between those of a country and its colonies, and another which has no colonies. It might as well be argued that the fact of twenty-four States composing this Union, entitles it to demand concessions from all other Powers whose territory is not divided into an equal number of similar parts, or that the United Kingdom, being constituted by

the Union of the three kingdoms, would be justified in demanding, upon that ground, from any Power, composed only of a single kingdom, more than it granted. In all commercial intercourse between different Powers, the question resolves itself into one of profit and loss. If it be the interest of the parties, that the trade should be allowed, it is altogether immaterial how those territories are governed or divided; both have an equal right to judge of the conditions of the intercourse. It would be most strange if the fact of a foreign State (Sweden for example) possessing a Colony no matter how unimportant, entitled such State to treat on different principles with Great Britain, in respect to an intercourse with her Colonies, from the United States.

Neither can it be admitted that the possession of Colonies entitles the nation holding them, to the exclusive enjoyment of the circuitous navigation between the parent country, and a foreign country, through any or all of those Colonies, upon the ground of its being the prosecution of a Colonial trade, which is understood to have been taken by Great Britain. If the connexion between the United Kingdom and its numerous Colonies is to be regarded in the light of that of a continuous coast, it must be allowed that this coast has very great extent. It passes around Cape Horn, doubles the Cape of Good Hope, crosses the Atlantic Ocean, penetrates almost every sea, touches every continent, and encircles the Globe. *Colonial coasting trade* of this universal reach presents none of the properties of an ordi-



nary coasting trade, except that of the identity of sovereign power. The foundation on which nations are supposed to reserve to themselves, exclusively, their own coasting trade, is not merely that of monopoly, but principally because they are thereby better enabled to check all invasions of their own laws—a reason which is inapplicable to the widely dispersed condition of the British Colonial possessions.

Entertaining such opinions as have been herein stated, in regard to the power of commercial regulation, the Government of the United States has always conceived that the trade between them and the British Colonies was open to all considerations, which are applicable to any other trade, and that it was consequently a fit subject of arrangement by treaty, or in any manner by which any other trade might be regulated. Great Britain may, undoubtedly, if she pleases, deny to herself the advantage of consulting with foreign Powers, through the accustomed organs of intercourse, as to the conditions on which, with mutual benefit, the trade may be carried on. But if she chooses to restrict herself to the single mode of regulating it by act of Parliament, it cannot be admitted either that such restriction is a necessary consequence from the nature of Colonies, or, as will be hereafter shown, that it is in accordance with the practice of the British Government itself.

The British Secretary of State alleges, that in 1822, the British government opened the Colonial intercourse to us, and withheld it from all other Powers; that, in ef-

fect, we thereby acquired a monopoly in the supply of the consumption of the British West Indies; but that Great Britain did not preclude herself from the right to open her colonial ports to other nations whenever it might suit her purposes. We did not ask that Great Britain should shut her Colonial ports to other Powers. The occlusion was, no doubt, in consequence of the estimate which she made of her own interests, without any intention to confer an exclusive benefit upon us, as the opening of them by the act of 1825 is according to a similar estimate. We have no right to complain, and never have complained, that Great Britain seeks for the United Kingdom and for its Colonies the best markets for sale and purchase, any more than we anticipate any complaint from her, if, when we are driven from her Colonial ports, we should exercise the like liberty. If she has reason to felicitate herself that, by the course of events, she is enabled to draw from other sources those supplies which her Colonies had been in the habit of obtaining from the United States, we have, perhaps, occasion for equal congratulation that, by the same or other events, markets have been opened to us, which may be found ample substitutes to those which it is her pleasure to close against us.

As to the monopoly which it is alleged we have enjoyed, it should be observed that the relative position of the British West India Colonies to the United States, and the nature of their respective climates and productions, are eminently favourable to a mutually beneficial commerce between

them. From their proximity to the United States, they find their convenience in drawing from us those perishable and bulky articles which they want, rather than from more distant countries. If the West India Islands were situated on the European instead of the American side of the Atlantic Ocean, and Europe could supply as cheaply and abundantly the same description of articles as the United States, the British West India Colonies would prefer obtaining their necessary supplies from Europe. The United States contribute to other West India Colonies, in as great extent, and share in the navigation between them as largely as they do in their intercourse with those of Great Britain. This is the effect of the law of proximity. If it be a monopoly, it has emanated from no human power, but from a much higher source. Far from repining at the dispensations of Providence, nations, contented with the portion of his bounty which has been allotted to each, would do well to acquiesce, with cheerful submission, in the arrangements of the Universe, which, in his wisdom he has thought proper to order.

The United States have never made it a subject of serious complaint that, for the indulgence which their laws have granted of unrestricted liberty of importation or exportation of whatever is produced or manufactured in the United States, or in the British Colonies, respectively, they have been met, in return, with a long catalogue of prohibitions and restrictions, including some of the staple commodities on both sides.

Although they have desired the abolition of those restrictions, they have left it to the sole and undisturbed consideration of the British Government, whether the prosperity of their Colonies themselves, would not be best promoted by the application to the intercourse of those liberal principles which have obtained the sanction of the present enlightened age. The Government of the United States has contented itself with insisting that, circumscribed as the trade has been, according to the pleasure of the British Government, the regulation of the navigation employed in it should be founded on principles of reciprocity, so as to allow fair competition between the vessels of the two countries.

The position now assumed, that Colonial trade with foreign States is not a fit subject for negotiation with those States, but belongs exclusively to the regulation of the parent country, is entirely new. It is not sustained by the practice of other Powers having Colonies. It is not sustained by the practice of Great Britain herself; and this brings me to the consideration of what has passed between the two Governments in relation to this trade.

They negotiated on that subject, to go no further back, in the year 1794. Their negotiations resulted in the 12th article of the treaty of Amity, Commerce and Navigation, which was then concluded. The very fact of treating, between two independent States, implies the right in each of considering and determining the mutual propositions which may be offered. The two Powers again

negotiated on the same subject in 1796, and because the Government of the United States did not conceive that the concessions of Great Britain, contained in the 12th article of the treaty of 1794, were equivalent to the concessions on their side, it was annulled. They again negotiated in 1815, and actually entered into stipulations which, as you well know, form a part of the convention of the third of July, of that year, for the regulation of the British East India trade; but, not being able to come to any agreement, in regard to the British West India trade, it was left to the two countries to regulate this subject by their respective laws. On that occasion, it was stated by Lord Castlereagh, that the British Government would not regard as unfriendly, any measure which the United States might think it expedient to put into operation for the regulation of that trade. And, to guard against all misconception, it is moreover expressly provided in the treaty itself, that "the intercourse between the United States and His Britannic Majesty's possessions in the West Indies, and on the continent of North America, shall not be affected by any of the provisions of this article, but each party shall remain in the *complete* possession of its rights with respect to such an intercourse." With what propriety, then, can it be affirmed, that, "to withhold from the ship of a country having colonies, trading from the mother country to a foreign State, under a regular treaty between the two countries, the right of clearing for another port belonging to that mother country,

in another part of the world, is an injury?"—an injury, "*undoubtedly* in deviation from the spirit of the treaty." The regular treaty referred to, excludes, by its positive terms, all regulation of the intercourse between the United States and the British colonies in the West Indies. And yet it is contended, that Great Britain has the right, according to the spirit of the treaty, not only to the benefit of the application of its provisions, to a subject which it alone professes to regulate, but to have them applied also to another subject which is expressly declared not to be regulated, and as to which both parties are left in the "*complete possession*" of all their rights. And this is insisted upon, in behalf of Great Britain, without any corresponding privilege on the part of the United States. If the treaty be competent to carry a British vessel through the British West India ports to the United States, and *vice versa*, whilst, under similar circumstances, those ports are to remain shut, by British authority, against a vessel of the United States, it would equally entitle such British vessel to pass through the ports of any and every country upon the globe, to and from the United States. The United States might, without any violation of the Convention of 1815, interdict all intercourse with the British West Indies, direct or circuitous. And surely the right to adopt the stronger and more comprehensive, includes the choice of the weaker measure, that of prohibiting to be done, by British vessels, what Great Britain prohibits under analogous circumstances, American vessels from

doing. It is alleged that that right, from the enjoyment of which we are interdicted by British regulation, nevertheless existed in Great Britain antecedently to any treaty, and at a period when no claim to any trade with British colonies had even been whispered by the United States. As a *right* it never existed one moment, since the Independence of the United States. If the privilege were exercised, it was from their moderation and by their sufferance. Since that epoch we are unaware of any period of time, when the United States did not claim a reciprocal intercourse with the British colonies. The two countries again unsuccessfully negotiated, in relation to the colonial trade, in 1817, when Lord Castlereagh submitted a draft of four articles, which did not prove acceptable, and in 1818, and 1819, and finally in 1824. What was the footing on which the intercourse had been placed, by the laws of the two countries, at the period of opening that last negotiation, you will see by adverting to the instructions of my predecessor, under date 23d June, 1823, with a copy of which you have been furnished. The long and arduous discussions which took place between Mr. Rush and Messrs. Huskisson and S. Canning, in 1824, brought the parties very near together. Each exchanged with the other the proposal with which he would be satisfied, but, as they could not then agree upon either, it was concluded to suspend the negotiation with a distinct understanding, on both sides, that it should be again resumed at some convenient day.

From a comparison of the American and British proposals it will be seen,

1. That both parties were willing to abolish all discriminating duties on either side ;

2. That the British Government was satisfied, and actually offered that the intercourse should continue restricted to the direct voyage, as it then was by the respective laws of the parties ; that is to say, that an American vessel clearing from the British West Indies, with their produce, for an American port, should be required to land her cargo in such port ; and, on the other hand, a British vessel, clearing from the United States, with their produce, for a colonial port, should be required to land her cargo in such port.

But, thirdly, the point on which the parties could not then agree, was, that the United States insisted that American produce should be admitted into the British colonial ports, upon the same terms as similar produce received from any where else ; that is, either from a British possession or any foreign country. Such an equal admission of our produce was contended for, in pursuance of the enactments of the Congress of the United States in the act of March, 1823.

Thus the two parties amicably separated, I repeat, with the perfect understanding of each, that the negotiation, in which such encouraging progress had been made, should be resumed and brought to a final conclusion, at some future day. To that renewed negotiation the United States have invariably looked with the confident hope that, when the parties again

met, they would be able to reconcile the only difference which obstructed an adjustment. They never could have dreamt that, without the smallest previous notice, and at the very moment of the arrival in England of a new American Minister, fully prepared to resume the negotiation, it was to be suddenly arrested, and the new ground for the first time taken, that the subject itself was of a nature to admit of no negotiation. Entire confidence being reposed on the resumption of the negotiation, as the means on which both parties relied, upon the recall of Mr. Rush in the spring of 1825, Mr. King was sent to replace him, fully empowered to treat on all the subjects (including the colonial trade) of the previous negotiation. He was instructed, in the first instance, as being a subject of more pressing urgency, to invoke the interposition of the British Government, to remove the impediments to the execution of the St. Petersburg Convention, which had been created by the British commissioner at Washington.—And he was informed that his instructions on the objects of the suspended negotiation, should be transmitted to him in time again to open it. They would have been so transmitted but that, upon his arrival in England, in the month of June, 1825, he was indisposed, that he learnt that His Britannic Majesty was ill, and that Mr. Canning was also unwell, and, moreover, that the British Cabinet was dispersed over the island, or upon the continent, in the pursuit of health and recreation. Happily his Britannic Ma-

jesty and his principal Secretary of Foreign Affairs were restored to health. The British Cabinet did not reassemble until the autumn of 1825, and Mr. King unfortunately remained feeble and unwell up to the period of his return to the United States, in consequence of his indisposition. If his instructions were not forwarded to him, it was because it was known that he was engaged in discussions respecting the St. Petersburg Convention, and it was believed that his languid condition did not admit of his entering upon the discharge of the more arduous duty of resuming the suspended negotiation. It would now seem to have been altogether useless to have transmitted them, the British Government having made up their mind, from the passage of the act of Parliament of July, 1825, to close the door of negotiation. Such a purpose was never hinted to the Government of the United States. On the contrary, as late as 22d March, 1826, Mr. Vaughan addressed an official note to this Department, in which he stated, "I have received instructions from His Majesty's Government to acquaint you, that it is preparing to proceed in the important negotiations between that country and the United States, now placed in the hands of the American Minister in London; Mr. Huskisson has been already introduced to Mr. R. King, as his Majesty's Plenipotentiary, and the Minister of State, having the department of Foreign Affairs, has received His Majesty's commands to associate Mr. Addington, late His Majesty's Charge.

d'Affaires in America, with Mr. Huskisson, as joint Plenipotentiary on the part of Great Britain.

"The negotiations will therefore be forthwith resumed, and it will be for the Government of the United States to judge whether, considering the state of the health of Mr. Rufus King, which Mr. Canning laments to say has been, since his arrival in England, far from satisfactory, will join any other negotiator, in the commission with him." If the British Government had then intended to bar all negotiation, in respect to the colonial trade, no occasion could have been more fit than the transmission of that note to communicate such intention. So far from any such purpose being declared, it is formally notified to the American Government that the British Government is *preparing* to proceed in the important negotiations, &c. and that the negotiations will be forthwith *resumed*, [of course including the colonial trade.] It appears from the same note, that the British Government was perfectly acquainted with the feeble condition of Mr. King, and therefore made the friendly suggestion of associating some other person with him to conduct the negotiation. Mr. Vaughan was verbally informed that we should prepare, as soon as practicable, to renew the negotiation, and that the state of Mr. King's health would be taken into consideration. The President did deliberate on it, and your willingness to be associated with Mr. King, in that public service, was ascertained.

In the meantime, and before the necessary arrangements could be made for your departure, a let-

ter from Mr. King, under date the 21st day of March, 1826, was received, desiring permission to return, which was promptly granted, and you were immediately appointed, by and with the advice and consent of the Senate, to succeed him. Without any unnecessary delay you proceeded on your mission, charged with instructions, framed in the most amicable spirit, to renew the suspended negotiation on all points.

It is now necessary to turn back to the British act of Parliament of July, 1825. That act has never, to this moment, been officially communicated to the American Government by that of Great Britain, and it reached us only through other channels.

We did not suppose, whatever may be the general terms of its enactments, that it was intended to be applied to the United States, until, at least, the experiment of the renewed negotiation should have been tried, and should have failed. We entertained that supposition because both parties, by all their correspondence and public acts, appeared to regard the renewed negotiation as the means of settling the existing difference. We had other cogent reasons for that supposition. If the British Government intended irrevocably to abide by the conditions which the act of Parliament prescribed, we believed, not only that it would have been officially communicated, with a notification to that effect, but that the British Minister would have been instructed to give such information as might be necessary to enable us clearly to comprehend its provisions.

This information to a Foreign

Government could not be deemed altogether unreasonable in respect to an act of Parliament, extremely complicated, spread out into eighty-six sections, besides various tables, and which was accompanied by a contemporaneous act relating to the same subject : also, containing numerous provisions, and both referring to other acts of Parliament, the titles of some of which are not even recited. Not only was no such information ever communicated, but you will perceive, from the accompanying correspondence with Mr. Vaughan in the last month, that, up to that time, he was not provided with instructions to afford a satisfactory answer to the inquiry, whether, according to the British interpretation of the act of Parliament, American vessels may trade between the British Colonies and foreign countries, other than the United Kingdom, in like manner with British vessels ; and whether all discriminating duties and charges imposed, either by the local authorities or by the British Parliament, between vessels of the United States and British vessels, have been abolished.

The importance of the latter inquiry was increased by information which had reached us, that, lately, during the present year, the Government of Nova Scotia had passed an act by which American vessels were subjected to higher duties or charges than British. That we sincerely believed that negotiation, and not legislation, was the means by which it was expected an arrangement was to be effected by the parties, will further appear from a letter addressed by me, on the 25th day of

December, 1825, to a member of Congress, a copy of which is herewith transmitted. In that letter the opinion is expressed that the British Government could not have intended to apply the act of Parliament of 5th July, 1825, to the intercourse between the United States and the British Colonies, because "1st, it would be inconsistent with professions made by that Government to this, and with negotiations between the two Governments contemplated, if not yet resumed : 2dly, no notice has been given at Washington, or at London, of such a purpose as that which, for the first time, is indicated at Halifax : 3dly, the British Minister here is unadvised by his Government of any intention to close the Colonial ports against our vessels : and 4thly, no information has been received here from any British Colonial port, except Halifax, of such intention."

This letter was published in the American gazettes ; a copy of it was furnished to Mr. Vaughan, which he is understood to have transmitted to his Government. And it is believed to have had some effect in producing the revocation of an order of the local Government, by which the port of Halifax was to have been closed against vessels of the United States from the 5th of January last. The order was, in fact, from whatever cause, revoked. And as that port, and all other British Colonial ports remained, after that day, open to our vessels, we were confirmed in the belief that the act, in the present state of the relations of the two countries, was not intended to be en-

forced on the commerce of the United States. This belief was further strengthened by the terms of the fourth section of the act, which are : " And whereas, by the law of navigation, foreign ships are permitted to import into any of the British possessions abroad, from the countries to which they belong, goods the produce of those countries, and to export goods from such possessions to be carried to any foreign country, whatever : And whereas, it is expedient that such permission should be subject to certain conditions ; be it therefore enacted, that the privileges thereby granted to foreign ships, shall be limited to the ships of those countries which, having Colonial possessions, shall ~~grant~~ the like privileges of trading with those possessions to British ships, or which not having Colonial possessions, shall place the commerce and navigation of this country, and of its possessions abroad, upon the footing of the most favoured nation, unless His Majesty, by his order in Council, shall in any case deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country."

Now His Britannic Majesty was thereby authorized, by his order in Council, if he should, in any case, deem it expedient to grant the whole or any of the privileges mentioned in the section, to the ships of any foreign country, " although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country." This investment of power in the Crown to dispense with a strict

compliance with the conditions of the act, in relation to any Powers like the United States, not having colonies, seemed necessarily to imply discussion, and consequently negotiation with such Powers. It is not the object, in bringing forward the facts and observations which have been stated in vindication of the American Government, to convey any reproaches against that of Great Britain, on account of the late unexpected resolution which it has taken. These facts and observations, however, shew that it ought not to excite any surprise that the Congress of the United States declined legislating on a matter which it appeared to them was both most fitting in itself, and preferred by Great Britain, to be settled by mutual and friendly arrangement. When deliberating on the only proposition which was made during their last session, that of a simple repeal of all discriminating duties, which it now appears would have been unavailing, and would have fallen far short of British expectations, they were unaware that they were acting under the pains and penalties of a British act of Parliament suspended over their heads ; a non-compliance with the strict conditions of which subjected the United States not only to the forfeiture of all intercourse with the British Colonies, but was to be attended with the further consequence of terminating all negotiation even between the parties.

I will now proceed to a consideration of the specific conditions, required by the act of Parliament, the non fulfilment of which is the professed ground of the late British order in Council. These conditions are understood to be con-



tained in the fourth section of the act, which begins by reciting, And whereas, by the law of navigation, foreign ships are permitted to import into any of the British possessions abroad, from the countries to which they belong, *goods the produce of those countries*, and to export goods from such possessions to be carried to any foreign country whatever : And whereas, it is expedient that such permission should be subject to certain conditions." It then proceeds to enact in respect to countries not having Colonial possessions, " That the privileges thereby granted to foreign ships shall be limited to the ships of those countries (not having Colonial possessions) which shall place the commerce and navigation of "*this country, and of its possessions abroad*, upon the footing of the most favoured nation, unless His Majesty, by his order in Council, shall, in any case, deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country." In considering this act of Parliament, the first circumstance which commands attention is the marked difference which it makes in the conditions required of foreign Powers, between those which have colonies and those which have none. From the Colonial Powers it only demands that they should grant to British ships privileges of trading with their colonies, like those which the British law of navigation grants to those Powers, of trading with the British Colonies, that is to say : that such Powers should allow to British vessels the

privilege of importing British produce into their colonies, and of exporting goods therefrom, to be carried to any country whatever, except the parent country. But, from the Powers having no colonies, the act demands that they should place the commerce and navigation, both of the United Kingdom and its possessions abroad, upon the footing of the most favoured nation. With the Colonial Powers the act proposes an exchange of Colonial trade for Colonial trade, exclusive of the trade of the parent country. With Powers not having colonies, it proposes to give the British Colonial trade only in exchange for a trade between those Powers and the United Kingdom, and all its possessions abroad. From the Colonial Powers it asks nothing but mere reciprocity ; which, viewing the vast extent of the British Colonies, in comparison with those of any other Power, is only nominal. The act, on the contrary, is not satisfied with demanding from the Powers having no colonies, reciprocity of privileges, but it requires that, in consideration of the permission to import their Produce into the British Colonies, and to export therefrom produce of those colonies to any foreign country, except Great Britain, those Powers should at once extend to the commerce and navigation of the United Kingdom, and its possessions abroad, the full measure of all commercial privileges which they may have granted to the most favoured nation. It is impossible not to see that this discrimination, made by the act of Parliament between different foreign Powers, operates exclusively upon the United States. All the maritime States

have colonies, and therefore will be let into the trade with the British Colonies upon the less onerous conditions. The United States are the only Power, not having colonies, which trades, or is ever likely to trade, in any extent with British Colonies. And, if they alone had been named in the second class of Powers described in the act, the application of its more burdensome conditions would not, in that case, have been more exclusively confined to them. The trade of the United States will bear an advantageous comparison with the trade of any of the Colonial Powers, either in its amount, or the value or variety of the articles which it comprehends, is greatly superior to that of most of them, and justly entitles us to demand from Great Britain as favourable terms as those which are extended to any of them. It is true that the act holds out the idea of some mitigation of these conditions in the authority confided to the King. But on what considerations His Britannic Majesty might be induced, by his order in Council, to exercise the dispensing power vested in him, is not stated in the act itself, nor have they been disclosed by any order in Council, or in any other manner which has come to our knowledge. The very investment of such a power, I repeat, implied friendly explanations and discussions, and consequently the means of negotiation which the British Government now rejects as altogether inadmissible. Being, therefore, unable to ascertain the undivulged considerations which might have led to some relaxation or variation of the conditions of the Act of Par-

liament, we are confined to an examination of those specific conditions themselves.

They require that the United States, to entitle themselves to the permission of importation and exportation which is granted by the British law of navigation, should place the commerce and navigation of the United Kingdom, and of its possessions abroad, upon the footing of the most favoured nation. The first observation occurring is, that, at the very moment when the British Government is putting forth the new principle that the regulation of the trade of the parent country and of its colonies, depends upon two rules, essentially different, the one admitting, and the other excluding all consultation with foreign States; this act confounds them together, and requires not merely that we should place the British colonies upon the footing of the most favoured colonies, but that, to entitle us to enjoy the privileges of an intercourse with those colonies, we must comply with the requirement of placing the navigation and commerce, both of the parent country and *all its possessions abroad*, on the footing of the most favoured nation.

The first difficulty which is encountered, in ascertaining the precise nature and extent of the conditions prescribed by the act of Parliament, is, that it furnishes no definition of the terms, "the most favoured nation," which it employs. According to one interpretation of those terms, they import the *gratuitous* concession of commercial privileges. According to another, they imply the nation which enjoys the great-

est amount of commercial privilege, whether granted *with or without* equivalents.

That the first was not the sense in which the British Government intended to use those terms, we conjectured; because, if it were, nothing remained to be done by the American Government to bring itself within the conditions of the act of Parliament, and we apprehended that the British Government required some positive act. Great Britain, in that sense of the terms, is, in respect to the commerce and navigation both of the parent country and its possessions abroad, on the footing of the most favoured nation. Whatever commercial privileges are granted by the United States to any foreign nation, by act of Congress, or by treaties, are founded upon equivalents. Holding out the principle of fair reciprocity to all nations, we neither ask, nor profess to bestow, commercial boons. Thus, in respect to alien or discriminating duties, we have not abolished them in behalf of any nation which has not professed to abolish them as to us. If they are now levied upon British vessels, coming to the United States from British colonies, countervailing duties are now also levied upon American vessels entering British colonies, and have been constantly, as Mr. Canning declares, from 1823. If the amount of American tonnage admitted to entry in British colonial ports, and of British tonnage entering American ports from British colonies, were exactly equal, the collection of duties on one side would neutralize the collection on the other. But, as there is much more American than Bri-

tish tonnage employed in the colonial trade, we pay a greater amount of those duties than Great Britain. And, consequently, if there were cause of complaint on either side, on account of their existence, it would be with us. It could not, therefore, have been in the first, but must have been in the second, meaning of the terms, that they are employed in the act of Parliament.

Great Britain is understood, then, to have demanded that the United Kingdom and its possessions abroad, should be allowed to enjoy, in the ports of the United States, the greatest extent of commercial privileges which we have granted, no matter upon what ample equivalent, to any foreign nation whatever. In order to ascertain the latitude of concession thus required, it is necessary to glance, and it shall be done as rapidly as possible, at the state of our commercial relations with other foreign Powers.

By the general law of navigation (see 6th vol. of the Laws of the United States, p. 180,) it is enacted, that, after the 30th day of September, 1818, "no goods, wares, or merchandise, shall be imported into the United States from any foreign port or place, except in vessels of the United States, or in such foreign vessels as truly and wholly belong to the citizens or subjects of that country of which the goods are the growth, production, or manufacture, or from which such goods, wares or merchandise, can only be, or most usually are, first shipped for transportation: *Provided, nevertheless, that this regulation shall not extend to the vessels of any foreign nation which has not*

*adopted, and which shall not adopt, a similar regulation."*

Great Britain had, long prior to the passage of that act, adopted, and continues to enforce, the restriction on which it is founded; whilst almost all other nations have abstained from incorporating it in their navigation codes. A vessel, therefore, of the United States, on entering a British port, being limited by British law to the introduction of goods the produce of the United States, a British vessel, on entering their ports, is limited to the introduction of goods being of British produce; whilst the vessels of all other nations, which have not adopted the restrictive regulation, are allowed, on entering a port of the United States, to introduce *any* foreign produce whatever, by paying the alien and discriminating duties, from which, vessels of the United States are exempted.

By particular arrangements with various Powers, some by treaty, and others by separate but reciprocal acts of the Governments of the United States and those Powers, the alien duties of the United States, are abolished as to them; and their vessels and those of the United States, are allowed the reciprocal liberty of importation and exportation at the same rate of duty upon both ship and cargo.

Thus, by the act of Congress of January, 1824, "so much of the several acts imposing duties on the tonnage of vessels in the ports of the United States, as imposes a discriminating duty between foreign vessels and vessels of the United States, is hereby suspended, so far as respects vessels truly and wholly belonging to

subjects or citizens of the Kingdom of the Netherlands, of Prussia, of the Imperial Hanseatic Cities of Hamburg, Lubec, and Bremen, of the Dukedom of Oldenburg, of the Kingdom of Norway, of the Kingdom of Sardinia, and of the Empire of Russia." And it enacts a like suspension of the discriminating duties on the cargo of any of the vessels of those several countries.

But it further enacts, that the suspension of those duties shall "continue in behalf of each of the above-mentioned nations, on condition that, and so long as, the vessels of the United States, and truly and wholly belonging to the citizens thereof, and all goods and merchandise of the produce and manufacture thereof, laden therein and imported into any of the said nations in Europe, respectively, shall be exempted from all and every discriminating duty of impost or tonnage, direct or indirect, whatsoever, other or higher than is levied upon the vessels and merchandise therein imported, belonging to the subjects or citizens of each of the said nations respectively."

Thus, therefore, to comply with the conditions of the act of Parliament, we must 1st, have allowed British vessels to import into the United States the produce of any foreign country whatever, upon the payment of the alien duties, although vessels of the United States are and should have remained prohibited to import into British ports like produce upon any terms whatever. And 2ndly, we must have abolished or suspended our discriminating duties, placing Great Britain upon the

footing of the most favoured nation, in whose behalf we had abolished or suspended them, although it now appears, from the avowal of Mr. Canning, that duties of at least an equal amount have been, since the adoption of the Order in Council, in the year 1823, and now are, levied upon American vessels and their cargoes in British Colonial ports.

So stood our law, and such must have been our compliance with the conditions of the Act of Parliament at the time of its passage. But we suppose it to have been the understanding of the British Government, that, if subsequent to that period, we should grant to any foreign nation still greater privileges than those above described, by treaty or otherwise, in consideration of equivalents or not, such more extensive privileges must have immediately accrued to the United Kingdom and its possessions abroad, upon the rule of the most favoured nation, or we must have subjected ourselves to the forfeiture of the Colonial trade, denounced by the Act of Parliament.

Now, subsequently to the date of that Act, to wit, on the 6th December last, we concluded a treaty with the Republic of the Federation of the Centre of America, which, having been afterwards ratified by both parties, is now in full operation. By this treaty it is stipulated, that whatever can be exported from, or imported into, either country, in its own vessels, to or from any foreign place whatever, may, in like manner, be exported or imported in the vessels of the other country, the vessel and the cargo paying in both ca-

ses the same and no higher duties, and consequently neither paying the Alien Duties. If we had entitled ourselves, by the fulfilment of the required conditions, to an intercourse with the British Colonies, we would now be obliged, in order to retain the right to that intercourse, to allow British vessels, both of the parent country and its possessions abroad, a liberty of exportation and importation coextensive with that of the vessels of the United States, although the interdiction of the British law of navigation should remain in full operation on the vessels of the United States.

If we are mistaken in the extent of the concessions required by the British Government, to place the United Kingdom and its possessions abroad, on the footing of the most favoured nation, the best and most friendly mode of correcting our error would have been, to have accompanied an official communication of the Act of Parliament with a full and frank explanation of those conditions, the performance of which on our part, would have satisfied that Government. By withholding all explanation, if the Congress of the United States had legislated on that subject at its last Session, it must have acted either 1st, upon the exposition of the conditions of the Act of Parliament, now given; or 2ndly, upon the views of the British Government as disclosed in the negotiations of 1824. It could not have conformed to the conditions of the Act of Parliament as we understand them, without a manifest sacrifice of the interests of the People of the United States, and an abandonment

of those principles of reciprocity for which they have ever contended in all their negotiations with foreign Powers. It now appears that it would have been unavailing if Congress had legislated in compliance with the views of the British Government, as presented in the negotiations of 1824. According to those views that Government was then willing that the trade between the Colonies and the United States should continue restricted, as it then was, by the laws of the two countries, to the direct intercourse; that is to say, that a British vessel clearing from the United States for a Colonial port, should be bound to land its cargo in that port; and an American vessel clearing from the Colonies for the United States, should be bound to land its cargo in them. But without any intimation to us, through the regular diplomatic channels, of an alteration in her views, Great Britain has now changed them, and on the 11th September, 1826, for the first time announces her determination not "to consent to enter into any renewed negotiation upon the intercourse between the United States and the British Colonies, so long as the pretension [the above restriction as to the direct intercourse] recorded in the Act of 1822, and there applied to British Colonies alone, remains part of the law of the United States." And we are also given to understand, "that the British Government further owes it to the spirit of frankness which it wishes to cultivate in all its relations with the United States, to declare, that, after having been compelled to apply to any country, the interdict

prescribed by the Act of 1825, the British Government cannot hold itself bound to remove that interdict, as a matter of course, whenever it may happen to suit the convenience of the foreign Government to reconsider the measures by which the application of that interdict was occasioned." The pretension referred to, is the exact counterpart of a similar pre-existing pretension contained in the Act of Parliament of 1822. The British Government does not appear to have reflected, that its rejection of all negotiation on the subject, deprives it of the best of the only two modes of getting rid of the exceptionable restriction.

From what has been now advanced, it has been established, 1st, that the Colonial trade was a fit subject for the adjustment, by friendly negotiation between the two Powers, of the conditions on which it should be carried on; 2ndly, that it has been long, and often, in fact, a subject of negotiation between them; and, 3dly, that the American Government was bound to conclude, from every thing which passed between the two Governments, that both parties entertained the expectation that it was to be arranged by negotiation, and only by negotiation. It was under this full conviction that your general instructions were prepared.

What may be the nature of the proposals which you were authorized to make, upon the renewal of the negotiation so confidently anticipated, it is not now proper should be communicated to the British Government. Respect for ourselves, no less than for that

Government, forbids that we should obtrude upon their consideration proposals against which they have deemed it proper to shut their ears. It will be, however, no violation of that respect, to say, that they were of a character, on all the disputed points between the two Governments, authorizing us to believe that they would be satisfactory.

The Government of the United States is animated by the sincerest desire to maintain, with that of Great Britain, not merely the forms of courtesy and amity, but to cultivate a cordial and lasting friendship; to settle every controverted question between them upon principles of justice and reciprocity, and, by an enlarged liberality in their mutual intercourse, to advance the real prosperity of both. Entertaining this desire, it has learnt, with the most lively regret, the resolution of the British Government to close the door against those friendly explanations, and that frank and mutual exposition of the wishes and views of the parties, which are, or should be, the object of all negotiation. The harmony of nations requires that every avenue to such explanations should always be kept fully open. But such a free access on all questions, appears to the Government of the United States to be especially desirable between two such nations as Great Britain and the United States, whose interests and happiness are so intimately interwoven. By rejecting the ordinary mode of treating through the established agency of accredited Ministers, and substituting for it that of mutual legislation, which, after all, is but an-

other, though less advantageous mode of negotiation, we deprive ourselves of many facilities. Congress and the British Parliament are numerous bodies, acting in different and distant spheres, and it is not derogating from their undoubted wisdom and superior intelligence, to suppose that their organization is not the best suited to the exercise of diplomatic functions, in all cases.

A single word of explanation, an instantaneous suggestion of the modification of a proposal elicited in conference, may lead to the adjustment of a difference when Ministers are treating face to face, which might not be settled for a long time in a negotiation conducted between two bodies, each composed of several hundred members, separated by the Atlantic ocean. We do not mean to bring forward any formal complaint against Great Britain, on account of her determination to exclude one of the means which experience has evinced to be best adapted to the accommodation of national differences. Our main purpose is, to show that the United States are not justly chargeable with the consequences which may flow from that most unexpected decision.

As the only alternative which the course adopted by that Government has left, the President has determined to give a signal proof of his anxious wish to preserve a good understanding between the two Governments, by laying the whole of the correspondence which has passed between them on this subject, including the instructions to our several Ministers at the Court of St.

James, before Congress, at its next session. The wisdom of that body, in the actual state of things, is alone competent to decide whether the colonial intercourse shall remain closed, according to the pleasure of the British Government, as manifested in the late Order in Council, and whether that portion of it left open by the order shall remain open, or on what conditions, compatible with the interests of the People of the United States, Congress is willing the trade should be placed.

You will accompany the communication of the substance of this despatch, or the substance of such part of it as you may not have anticipated in any answers to Mr. Canning's note, presented from yourself to the British Government, with the assurance that, notwithstanding their present decision, the Government of the United States, at all times hereafter, will be ready, at Washington or at London, to treat of the colonial intercourse, whenever it may be their desire or inclination to negotiate on that subject.

I am, with great respect, your obedient servant,

H. CLAY.

*Mr. Secretary Canning to Albert Gallatin, Esq.*

Foreign Office, Nov. 13, 1826.

The undersigned, &c. would willingly have abstained from offering any observations on the note addressed to him by Mr. Gallatin, &c. on the 22d of September, in reply to the answer which had been returned by the undersigned to Mr. Gallatin's note of the 26th of August; the facts of the question agitated between

Mr. Gallatin and the undersigned admitting of no dispute, and their previous correspondence having exhausted all the arguments on each side of which the matter in discussion is susceptible.

But, upon perusal of Mr. Gallatin's note, after an interval of a few weeks, there appear to the undersigned to be two or three points much relied upon by Mr. Gallatin, which it would be improper to leave unnoticed.

The first of these points, and that which affects more or less the whole of Mr. Gallatin's reasoning, is the question of right—the right of a mother country to monopolize the trade of its colonies. Mr. Gallatin discusses this question much at length, and attaches himself in that discussion, rather, perhaps, to the terms, than to the substance of the proposition intended to be put forward by the undersigned.

The proposition of the undersigned is simply, that there is a right in a mother country, universally admitted among nations, to interdict to foreign nations a trade with her colonies.

It may be true (as stated by Mr. Gallatin) that every country has the same "right" to interdict with foreign nations a trade with itself. But, be the abstract "right" what it may, this, at least, cannot be denied—that the exercise of that "right" has been so usual in one case, and so unusual in the other, that the difference of usage (if it be no more) amounts almost to a difference of principle.

Foreign nations might justly complain of the one interdiction—that of trade with the mother country, as an innovation, but they have no just ground of complaint



(and no other nation than the United States has ever complained) of the interdiction of trade to the colonies; because, in all ages, all nations having colonies have maintained such an interdiction.

Mr. Gallatin, after having objected in the beginning of his note, to the use of the word "right," as applied by the undersigned to the colonial trade of Great Britain, applies the same word himself, (inadvertently, perhaps,) in a subsequent part of his note, to the interdiction by the United States of a trade in British ships between the United States and the British West India Colonies.

That trade Mr. Gallatin describes as a trade which had been carried on merely by "permission"—"a permission which," says Mr. Gallatin, the United States had a right to grant or to withhold."

Now, as according to Mr. Gallatin's doctrine, the United States have, in strictness, a "right" to exclude British trade altogether from their ports, the undersigned cannot presume to contend that they have not the same "right" to prohibit a trade between those ports and the British colonies.

But the undersigned ventures to affirm, that the right which they have exercised in the latter prohibition has no peculiar and separate character growing out of long and general usage, to distinguish it in principle from a prohibition of all trade whatever with the United States.

Up to the year 1818, Mr. Gallatin admits that the trade since prohibited by the United States, was enjoyed by British vessels, in common with those of all other countries. The interdiction, there-

fore, is not of ancient usage, and so far is it from being generally applied by the United States to Foreign vessels, that it operates against Great Britain alone.

Is it not at least singular, that Mr. Gallatin should reserve for a practice thus novel and thus partial, the character of "right," which he denies to an usage as old as the establishment of colonies, and universal among all nations to which colonies have belonged?

Is it not singular also, that while Mr. Gallatin denies any claim on the part of Great Britain to the continued enjoyment of a trade in the United States, which she is admitted by Mr. Gallatin to have enjoyed uninterruptedly up to the year 1818, Mr. Gallatin puts forward a claim on the part of the United States to trade with the West India Colonies of Great Britain, on the ground of usage and practice?

The United States, says Mr. Gallatin, found "their reclamation to participate in that commerce," (the trade with the British and West India Colonies) on this ground—

"That trade has been allowed by Great Britain, it may be said, from the beginning, and at all times, and has become thereby so far assimilated to that with the European dominions of Great Britain, that the United States did think that they had the same claim to a "participation in both." "As early as the year 1783, the Government of Great Britain, deviating from that principle of the colonial system, according to which her colonies were prohibited from trading directly with any other country, allowed her West India

Colonies to trade directly with the United States of America in British vessels."

It may be observed as to these facts, as stated by Mr. Gallatin himself, that no two things can be much more different than a permission (on the one hand) given by Great Britain to British vessels to trade directly between a British colony and another country, (the vessels of that other country remaining by law, and, in fact, excluded from the ports of the colony) and that "participation," on the other hand, which implies a trade between the United States and the West India colonies in vessels of the United States.

The relaxation to which Mr. Gallatin refers, in fact did nothing more than permit British vessels to bring certain articles into the colonial ports directly from the place of their production, instead of bringing the like articles circuitously through the United Kingdom. The question, whether these articles should be imported circuitously through the United Kingdom, or directly from the place of their growth, was a mere municipal concern, which did not vary the exclusive character of the colonial system, so long as that importation was confined to British ships.

Undoubtedly the United States might then, if they thought proper, have interdicted the trade to British vessels between their ports and the British West India colonies, unless American vessels were allowed to participate in it, but they did not.

The history of the usage, therefore, is, that up to a certain period, a trade between the ports of the United States, and the British

West India colonies in British ships, went on unquestioned, while, as Mr. Gallatin is aware, no American vessel could enter the ports of the British West India colonies, except under occasional and temporary suspensions of the colonial law. And yet it is upon this usage that Mr. Gallatin founds—

First—A right in the United States to prohibit vessels from clearing out from the ports of the United States to the British West India colonies.

Secondly—A claim on the part of the United States to participate in the colonial trade of Great Britain.

The things may be right or wrong in themselves; but usage surely points exactly the contrary way to that in which Mr. Gallatin applies it.

Mr. Gallatin has yet another ground on which to rest this claim of the United States to a participation in the colonial trade of Great Britain:—

"During the European war, Great Britain found it convenient occasionally, but repeatedly, to open her West India ports to American vessels; at the same time she was asserting the principle uniformly denied by the United States, that a neutral was not authorized by the law of nations to carry on in time war a trade with a colony, in which he was not permitted to participate in time of peace."

First—If the ports were occasionally opened, the very terms of the proposition show that they were generally shut. It would be difficult to imagine either a more complete proof of the acknowledged right to admit or exclude Foreign trade from the colonies as the governing authority might,

think fit, or a more perfect refutation of the plea of usage in favour of a permanently open trade.

Secondly—The rule of 1756 appears to have little application to the point in dispute. It might to be sure be, in all such cases, a question with the neutral, whether he would be tempted by the open ports of one belligerent, to run the risk of capture by the other. But the point in dispute is, whether by occasionally opening her colonial ports, Great Britain virtually abandoned the right of closing them again, when she thought proper; and on this point, the merits of the rule of 1756 have not, so far as the undersigned can make out, the most distant bearing.

Thirdly—As it is intended to prove that the United States have a claim to participate in the colonial trade for ever, because the ports of the colonies were occasionally opened during the war, Mr. Gallatin describes the ports as having been opened to American vessels. True, but not to American vessels only, or specifically, the ports were open to the vessels of all friendly powers. The argument, therefore, as to the special claim of the United States, falls to the ground.

The truth, however, is, that under the words “right” and “claim,” so frequently recurring in this discussion, lies the real and fundamental difference of opinion between Great Britain and the United States, which has frustrated all attempts to settle the disputed question of colonial intercourse upon common principles, by conventional arrangement.

When it is contended that the “right” by which Great Britain prohibits foreign countries from trading with her colonies, is the

same “right” with that by which she might, if she thought fit, prohibit them from trading with herself, this argument (which is employed by the United States alone) implies, that the special prohibition is a grievance to the United States, if not of the same amount, of the same kind as the general prohibition would be.

This is a doctrine which Great Britain explicitly denies.

It seems to be admitted indeed, that there was a time when the distinction between colonial trade and the trade of the mother country was tenable. But it has been assumed, in no obscure terms on the part of the United States, that the colonial system is now virtually at an end.

Great Britain denies this assumption.

Whatever relaxation Great Britain may think fit to introduce for her own sake, and for that of her colonies themselves, into her colonial system, she adds her “right” to maintain that system, as with respect to foreign nations, to be unaltered and entire. Great Britain, therefore, cannot consent to any diplomatic arrangement by which such “right” may appear to be relinquished, or by which her assertion of it can be understood to be in any degree qualified or controlled.

Hence the impracticability (already so repeatedly proved) of any treaty upon this subject between Great Britain and the United States.

Hence the necessity for Great Britain of doing whatever she means to do in the way of relaxation of her colonial monopoly, by acts of her own legislation.

This deduction brings the undersigned to the last point in Mr.

Gallatin's note, and that on which he is most anxious that there should be no misconception between them.

Mr. Gallatin speaks of a "permanent exclusion of the United States by Great Britain, from a trade open to the rest of the world," as a measure different in character from a general exclusion of all foreign nations.

But is this a just description of the effect of the act of 1828?

Considerations (of which Great Britain alone is the judge) have induced her to open her colonial trade to other nations. She opened it to them, not as a matter of special favour, or of special "claim" to any one, but on specified conditions common to all nations who might think fit to subscribe to them, and to the United States among the rest.

If some of the nations of the world have taken advantage of the opening thus offered to them, by accepting the conditions annexed to it, and others have omitted to do so, and if the United States are, by their own choice, in the latter class, surely it is not a correct description of the consequence of this, their own voluntary omission, to say that the United States are "excluded" by Great Britain from a trade which, on the contrary, Great Britain invited them to share.

Exclusion of foreigners from the colonial trade is the general principle of colonial policy; admission to that trade is the exception—an exception, which, in this instance, Great Britain was willing to grant to all those who were ready to purchase it on terms tendered equally to all.

The United States cannot mean

to put forward the pretension, that what is granted to others on terms, should be granted to them unconditionally. If not, it seems difficult to imagine how they can feel it to be unjust or unkind, (it certainly is not so felt, or intended, on the part of this country) that the United States having, upon a free, and (as is known from the public proceedings of their legislature) deliberate consideration, declined to subscribe to the terms on which exception from colonial prohibition was tendered impartially to all nations, they should find themselves, in common with such of those nations as have decided like themselves, liable to that exclusion, which is and always has been, the general principle of colonial trade.

The undersigned avails himself, &c.

GEORGE CANNING.

ALBERT GALLATIN, Esq. &c. &c.

*Albert Gallatin, Esq. to Mr. Secretary Canning.*

Dec. 28, 1828.

The undersigned, &c. did not fail to transmit to his Government the note which Mr. Canning, &c. did him the honour to address to him, on the 13th of November, in reply to the answer which had been returned by the undersigned to Mr. Canning's note of the 11th of September. But unwilling to continue a discussion which did not seem likely to lead to any practical result, he abstained from making any further observations on the subject, until he should have received special instructions from his Government, in reference to a state of things which was altogether unexpected at Washington at the time of his departure.

Having now received a despatch from the Secretary of State of the United States, the substance of which he is instructed to communicate to Mr. Canning, the undersigned, in performing that duty, will, on those points to which he had already alluded in his former note, have but some explanatory remarks to add.

The right of Great Britain, which is that of every nation, to prohibit or allow foreign commerce with any part of her dominions, is unquestionable. That right, in reference to her colonies, has never been denied by the United States, any more than with respect to any other part of her possessions, and it is also admitted, that she may, within her own jurisdiction, prescribe the conditions on which such commerce shall be tolerated, and at her will, again interdict altogether the intercourse thus permitted.

On the other hand, the United States, unless restricted by treaty, which in this case they are not, have precisely the same right to prohibit, to allow, and within their own jurisdiction, to regulate foreign commerce with their dominions, whether that commerce be with the foreign country itself, or with its colonies or possessions abroad. It was not inadvertently that the undersigned used the word "right," as applied to the United States: he did not object to the use of the word, as applied to Great Britain. What he attempted to show, was, that this right, which was admitted, and although it might at any time be exercised, had no bearing on the questions which had been the subject of discussion between the two countries.

What has been contended for is, that since to any commerce there must always be two parties, the mutual consent of both is always necessary, in order that such commerce may at all exist; and whatever its nature may be, whether of ancient or modern date, whether with colonies or with possessions of a different description, from the moment it does exist, it becomes a fit subject for negotiation; and, that there is no reason why an agreement should not, on that, as on any other species of trade, be founded on terms of just reciprocity, though relating to colonies, from an intercourse with which foreigners had formerly been, and might again be excluded.

The various relaxations of the colonial system of Great Britain, as they never were, nor could have been intended for the benefit of the United States, and as they were always accompanied with restrictions exclusively favourable in her, could not be viewed as a boon to them, and never were accepted as such. The extent to which the commerce, when not laid under too severe restrictions, was carried on between the United States and the British colonies, is an irrefragable proof that it was equally advantageous to both parties. If equally advantageous, there had been no favour conferred on either side, there was no ground for a pretension by either party that the intercourse should be regulated by unequal conditions.

No such pretension had in fact been advanced. The proposals made by both parties, during the negotiations of the year 1824, were avowedly founded in a fair

reciprocity, and brought the parties very near together. Unable still to agree on some points, it was concluded to suspend the negotiation, with a distinct understanding that it should be again renewed at some convenient day.

Mr. King was, in 1825, empowered to treat on all the subjects of the previous negotiation. He was instructed, in the first instance, as being a subject of more pressing urgency, to call on the British Government to remove the impediments which prevented the execution of the St. Petersburg Convention. If his instructions on other subjects were not forwarded to him, it was because he was engaged in discussions respecting that Convention, and it was believed that the state of his health did not admit of his entering at that time upon the more arduous duty of resuming the suspended negotiation.

Of this His Majesty's Government appears to have been fully aware. On the 22d of March, 1826, Mr. Vaughan addressed an official note to the Secretary of State of the United States, in which he says :

"I have received instructions from His Majesty's Government to acquaint you, that it is preparing to proceed in the important negotiations between that country and the United States, now placed in the hands of the American Minister in London. Mr. Huskisson has been already introduced to Mr. R. King, as His Majesty's Plenipotentiary, and the Minister of State, having the department of Foreign Affairs, has received His Majesty's commands to associate Mr. Addington, late

America, with Mr. Huskisson, as joint Plenipotentiary, on the part of Great Britain. The negotiations will, therefore, be forthwith resumed ; and it will be for the Government of the United States to judge whether, considering the state of health of Mr. King, which Mr. Canning laments to say has been, since his arrival in England, far from satisfactory, they will join any other negotiator in the commission with him."

The President did deliberate on that friendly suggestion ; and the nomination of a person to be associated with Mr. King was contemplated, when a letter from him, dated the 21st day of March, desiring permission to return was received ; upon which the duty of renewing those important negotiations, devolved, to his great regret, on the undersigned alone.

His instructions were of a character authorizing the hope that their result would be satisfactory ; his departure was hastened : on his arrival in England, the Order in Council of July last had already been enacted. Indeed, it appears that the determination not to renew the negotiations on the Colonial Intercourse, and to regulate it exclusively by acts of Parliament, had been taken before July, 1825, when the acts to that effect were passed. Had Mr. King been provided with the same instructions, which the undersigned received, they would have been equally unavailing.

Of that determination, the Government of the United States had not the least notice. On the contrary, although Mr. Vaughan's communication offered the opportunity of making known the inten-

ment, positive assurance was given of its being prepared to proceed in the important negotiations, and that the negotiations would be forthwith resumed, without any suggestion that the colonial intercourse would form an exception.

The acts of Parliament of the year 1825, in which that intention was to be discovered, never were officially communicated. That of the 27th of June, passed only a few days before that of the 5th of July, and not specially repealed by it, was not calculated to elucidate the object in view; and several causes concurred to induce a belief, that this last act was not intended to affect the trade between the British colonies and the United States, as carried on under the act of June, 1822.

This belief, and the reasons for it, were distinctly expressed in a letter from the Department of State to a member of Congress of the 25th December, 1825, a copy of which is enclosed. That letter was published in the American newspapers; a copy was furnished to Mr. Vaughan; and he is understood to have transmitted it to his government.

That opinion was corroborated by the construction ultimately put on the act by the British authorities. It was thereby provided that certain privileges granted to foreign ships should be limited to the ships of those countries which should comply with the conditions therein stated, unless his Majesty, by his order in council, should in any case grant such privileges, although the conditions had not been performed. And the act was declared to come in full force and operation from the 5th of January, 1826. It had at first been deter-

mined at Halifax, that the port should accordingly be shut against American vessels after that day. This decision was afterwards revoked, although the condition had not been performed, and although no order in council had granted the privileges in question.

It now appears that the act of the 5th July, 1826, (6th Geo. IV., cap. 111,) which contains no repealing clause of former acts, refers, under the name of the law of navigation, to another act of the same date; (6th Geo. IV., cap. 169;) that this, although it contains also no repealing clause, is understood and construed as having superseded all former acts on the same subject; and that the actual repeal of the act of 1822, (3 Geo. IV., cap. 41. sec. 3, 4,) is to be found in another act, also of the 5th of July, 1825, (6 Geo. IV., cap. 105,) entitled "An act to repeal the several laws relating to the customs."

The intricacy of those several acts, and the difficulty of understanding their precise meaning, of ascertaining what parts of former acts were actually repealed, and what still in force, a difficulty which, in the case of the Jubilee, seems to have led into error one of the highest tribunals of Great Britain, may well account for the construction put upon those acts in the United States; affording, at the same time, a sufficient reason for having preferred a renewal of the negotiations to a pure acceptance of the conditions contemplated by the act of the 5th July, 1825, (6 Geo. IV., cap. 114,) had it been only for the purpose of ascertaining the true intent and meaning of the act.

Even so late as October last, Mr. Vaughan, as appears by his correspondence with Mr. Clay, was not provided with instructions that enabled him to give a satisfactory answer to the inquiries, whether according to the British interpretation, American vessels might trade between the British colonies and foreign countries, and whether discriminating duties of every species had been abolished.

The proposition made during the last Session of Congress, and to which Mr. Canning has alluded, affords an additional proof of the imperfect understanding, owing to the complexity of the several acts of parliament which at that time prevailed, respecting their true object and intention. That proposition was only for a repeal of the discriminating duties, and, if adopted, would have been unavailing, since, not embracing a repeal of the restrictions on the circuitous intercourse, it is now understood that it would not have been accepted by the British Government, as a compliance with the condition required by the act of the 5th of July, 1825.

It is not intended by these facts and observations to convey any reproaches against His Majesty's Government on any account of the unexpected resolution which it has taken. But they satisfactorily show, that the United States could have entertained no doubt of the continued disposition of Great Britain to settle the colonial intercourse by an amicable arrangement, and that there were peremptory reasons for preferring that mode rather than to legislate on the subject.

Supposing even that the determination of the British Govern-

ment not to renew the negotiation on that point had been communicated or known, the specific condition on which American vessels might be allowed to participate in the intercourse between the United States and the British colonies, was so expressed in the act of Parliament as to have required explanations before it could be complied with.

The condition required from countries having colonies, was both distinct and reciprocal. Nothing more was asked than that they should grant to British ships the like privileges of trading with their colonial possessions, which were granted to their ships, of trading with the British possessions abroad. No regard was paid to the importance of such colonial possessions. Sweden, by permitting British vessels to trade with the island of St. Bartholomew, was allowed privileges which were offered to the United States on very different terms. And, with the exception of some of the German States, those terms applied to no other maritime power than the United States. All this Great Britain had a right to do ; no complaint is preferred on that account : it was the condition which was required from them which they had to consider.

That condition was, that the United States should place the commerce and navigation of this country, (Great Britain,) and of its possessions abroad, upon the footing of the most favoured nation.

Had the condition been limited to the commerce and navigation of the British colonies ; had it been so intended and expressed, as that the United States might have sa-



tified it, by placing the intercourse between their dominions and the British colonies on the same footing in every respect, as the intercourse between the United States and the colonies of the most favoured nation; the condition, though not altogether free of objection, would at least have been apparently reciprocal. To require besides, that it should be extended to the commerce and navigation of Great Britain generally, that it should embrace that intercourse between her and the United States which is regulated by a special convention, that they should grant any privilege in that intercourse to British vessels, not stipulated by that convention, as the price for the permission of trading with the British colonies, was a total departure from the principles of a just reciprocity.

But it appeared also extremely difficult, if at all possible, to understand what was meant—by placing that commerce and navigation on the footing of the most favoured nation.

If Great Britain only asked to be placed on that footing, on giving the same equivalent which any other foreign nation may have given to the United States, in order to have privileges which she does not enjoy, the navigation law of the United States has already made provision in that respect. There is no privilege enjoyed in the United States, by the commerce and navigation of any foreign nation, which Great Britain may not obtain, by allowing to them the same reciprocal advantages which they enjoy in the ports of such foreign nation, and on which such privilege depends. To comply with the condition thus

understood the United States would have had no new act to perform. This could hardly be presumed to have been the intention of the act of Parliament.

But if, by that act, it was intended to require, as the condition for allowing to American vessels the privilege of trading with the British Colonies, that the commerce and navigation of Great Britain and of her possessions abroad, should, without any other equivalent, be generally placed on the same footing with the commerce and navigation of any other foreign nation, which, by reason of reciprocal advantages allowed to American vessels, may, now or hereafter, be entitled to greater privileges than Great Britain now enjoys, the condition was inadmissible.

British vessels, and those of several other nations, may now, by virtue of treaty stipulations, or of other reciprocal regulations, import into the United States articles of the produce or manufacture of the countries to which such vessels respectively belong, on the same terms, and on the payment of the same duties of tonnage, and on the cargo, as if imported in American vessels. In every instance the privilege is reciprocal, and will cease with respect to any of those countries, whenever vessels of the United States laden with produce of the United States, may cease to be admitted into the ports of such country on the same terms as its own vessels.

In conformity with the navigation law of the United States, the prohibition to import in foreign vessels, merchandise not the produce of the country to which such vessels respectively belong, ex-

tends only to the vessels of such nations as have adopted a similar regulation. Great Britain is accordingly one of the few nations to which the prohibition applies.

In pursuance of the treaty concluded in December, 1825, between the United States and Central America, whatever may be imported into or exported from either country in its own vessels, to or from any foreign place whatever, may, in like manner, and on payment of the same duties, be imported or exported in the vessels of the other country.

If, therefore, it was meant by the condition required, that the commerce and navigation of Great Britain, and of her possessions abroad, should be gratuitously and generally placed on the footing of the most favoured nations, the United States, in order to comply with it, and as the price for the permission to trade with the British colonies, would have been obliged—1. to admit the importation of British merchandise in British vessels, on the same terms, and on payment of the duties, as if imported in American vessels, although the convention of 1815 should have expired, and the corresponding privilege was no longer allowed to American vessels in British ports; 2. to admit the importation in British vessels, of the produce of every foreign country, although the importation into British ports, of the like produce in American vessels, should still be prohibited; 3. if the condition was intended to apply to privileges granted subsequent to the date of the act of Parliament, to admit the importation of such foreign produce in British

vessels even without being charged with any discriminating duties, and generally to allow to British vessels, without reciprocity, all the reciprocal advantages to which the vessels of Central America are entitled.

If this was not the intention of the act of Parliament, if the words "commerce and navigation of this country," were meant only to include the circuitous intercourse, the expressions used to convey that meaning must be admitted to have been much too general. This last interpretation has been suggested only by the observations that have occurred in the course of Mr. Canning's correspondence with the undersigned. If such or any other admissible construction was intended, the most obvious way of preventing both an erroneous interpretation of the condition and any unfounded expectations, in reference to a renewal of the negotiations, would have been an official communication of the act of Parliament, accompanied with a full and free explanation of the condition required, and of the intentions of His Majesty's government on the whole subject.

The government of the United States is animated by the most sincere desire to maintain with that of Great Britain not merely the forms of courtesy and amity, but to cultivate a cordial and lasting friendship, to settle every controverted question between them upon principles of justice and reciprocity, and by an enlarged liberality in their mutual intercourse to advance the real prosperity of both.

Entertaining this desire, it has

learnt with regret the resolution of His Majesty's government to close the door against those friendly explanations, and that free and mutual exposition of the wishes and views of the parties, so essential between two nations whose interests and happiness are so interwoven as those of Great Britain and the United States, and which can be but partially and imperfectly interchanged, if mutual legislation is substituted to negotiation and to the ordinary mode of treating.

As the only alternative which this course has left, it was the President's intention to lay the whole correspondence which has passed between the two governments on that subject, including the instructions given to the several American Ministers near His Britannic Majesty, before Congress at their present session.

It will remain with that body to decide, whether the Colonial Intercourse shall be altogether closed, whether that portion of it left open by the Order in Council shall continue so, or on what conditions compatible with the interests of the United States that trade may be placed.

The undersigned has been further instructed to give at the same time to His Majesty's government, the assurance, that notwithstanding its late decision, that of the United States will be ready at Washington, or at London, to treat of the Colonial intercourse, whenever it may be the desire or inclination of Great Britain to negotiate on that subject. The undersigned, &c.

ALBERT GALLATIN.

The Rt. Hon. Geo. Canning, &c.

*Mr. Secretary Canning to Albert Gallatin, Esq.*

Foreign Office, Jan. 27, 1827.

The undersigned, &c. has the honour to acknowledge the note addressed to him on the 28th ult. by Mr. Gallatin, &c. in replying to which the undersigned will, as far as possible, conform himself to the example of Mr. Gallatin, in putting aside those points of the question in agitation between them, which have been already exhausted in argument, and the further discussion of which would not tend to any practical advantage.

The parts of Mr. Gallatin's last note, which appear to the undersigned to require any observation, relate to matters rather of fact than of reasoning.

Mr. Gallatin complains that the act of Parliament of 1825, was not officially communicated to the Government of the United States.

It is perfectly true that it was not; nor has it been the habit of the two Governments to communicate reciprocally to each other acts of their respective Legislatures.

The act of Congress of 1823, —an act the provisions of which specially affected Great Britain—was not officially communicated, either to the King's Minister at Washington, or to his Majesty's Government by the American Minister resident at this Court. So far from any such communication being made, or any voluntary explanation of the bearing of that act being offered, it was not till after repeated and pressing inquiries, that His Majesty's Minister at Washington succeeded in obtaining from the American Secre-

tary of State, the true construction of the most important clause of that act, the clause in which the United States claimed that their trade to the British West India colonies should be put on the same footing with the trade to the same colonies from 'elsewhere;' and learnt, to his great astonishment, that under the word 'elsewhere,' was intended to be signified, not only the other dependencies of Great Britain, but the mother country itself.

The undersigned, at the same time, begs that it may not be supposed that the British Government withheld from the Government of the United States communication of the act of Parliament of 1825, from any notion of retaliation for the omission of the Government of the United States to communicate to that of His Majesty the act of Congress of 1823.

He refers to that instance of omission on the part of the American Government only in proof.

First, That the ordinary and natural course between States, is not to make diplomatic communications of the acts of the respective legislatures; and secondly, that no inference could be drawn from such an omission on the one side, any more than on the other, of (what the undersigned disclaims for his government) an intentional want of courtesy or respect.

But the act of 1825 did not relate specially to the United States. It held out to all nations of the world certain benefits, (or what were believed by the British Government to be so,) on certain conditions.

If a communication of the act had been made to one nation, it

must have been made alike to all. Such communication would have been liable to different misrepresentations: some governments might have considered it as a solicitation to which they were bound in courtesy to give some answer, explaining their reasons for declining (if they did decline) to avail themselves of the provisions of the act: others might perhaps have taken umbrage at it, as an unauthoritative pretension to impose the legislation of this country upon other nations.

The simplest course was to allow the provisions of the act to find their way to general knowledge through the usual channels of commercial information.

The undersigned has no reason to apprehend that this course has proved less effectual on the present than on former occasions.

The conditions of the act of 1825 have been accepted and carried into effect by some governments: that of the United States has not thought it expedient to take advantage of them. But the undersigned cannot but be still of opinion, that the Resolution proposed by the House of Representatives, at Washington, at the beginning of the last session of Congress, for the express purpose of urging the Executive Government of the United States to come into the terms of the act of 1825, the debates which took place upon that proposition, and a final rejection of it by a majority of only two votes, show that it was not for want of a sufficient understanding of the intent of the act of Parliament, that the conditions of it were not accepted by the United States.

To one piece of evidence, which proves the perfect understanding in America, not only of the purport and provisions of the Act of Parliament of 1825, but of the conditions which it would be requisite for the American Legislature to perform in order to entitle the United States to the benefit of that act, the undersigned might have scrupled to refer, (as not being of the nature of a Diplomatic document,) if Mr. Gallatin had not encouraged him to bring forward any document tending to throw light on the matter in dispute, by citing, in support of his own view of that matter, a private letter from Mr. Clay, to a member of Congress.

Early in the Session of Congress of 1825-26, a petition from Baltimore was presented to both Houses of the American Legislature, in which petition it was distinctly pointed out, that the British Act of Parliament of July, 1825, had not only manifested the readiness of this country to remove all discriminating duties, but also to permit American ships to clear out from British Colonies, not, as theretofore, to the ports of the United States only, but to all parts of the world, (the United Kingdom and its Dependencies alone excepted.)

The petition, with equal distinctness, invited the attention of the American Legislature to the conditions on which these advantages might be secured to the United States, and prayed for the removal of the several restrictions imposed by the American act of 1823, not of 'the discriminating duties' only, but of the prohibition of what is called by Mr. Gallatin 'the circuitous intercourse in Bri-

tish ships:' the petitioners expressly submitting to Congress the propriety of admitting British vessels, from whatever ports, on the same terms as the vessels of the most favoured nations. }

It appears from the reports of the proceedings of Congress, that it was against the prayer of this petition, (but without impeachment of any of its allegations) that the decision of the American Legislature, at the close of the Session, was taken; it cannot be doubted, therefore, that the American Legislature had the whole purport and bearing of the act of 1825 full before their eyes.

The fact that some of the British Authorities abroad took upon themselves to suspend the execution of the act of 1825, towards the United States, is undenied.

But the only effect of this suspension was—the continuance of the benefits of the then existing state of things to the United States, for nearly a twelve month longer than they would have otherwise enjoyed it.

That continuance was permitted by the British Government, mainly in consideration of the then pendency, in the Legislature of the United States, of the Resolution herein before mentioned, for conforming to the conditions of the act of 1825.

Immediately upon the receipt of authentic intelligence of these proceedings at Washington, an instruction was sent out to Mr. Vaughan, grounded on the belief of the British Government, that Congress would not separate without adopting the resolution then under their consideration. In that case, and upon receiving an assu-

rance from the American Government that the restrictions and charges on British shipping, and British Colonial produce, would be withdrawn by the United States, Mr. Vaughan, was authorized to deliver a note to the American Secretary of State, declaring—that the discriminating duties imposed upon American ships and their cargoes in the West Indies should immediately cease. Mr. Vaughan was actually in possession of this instruction, when the resolution, on the assumed adoption of which the instruction to Mr. Vaughan had been founded, was rejected. It was no part of Mr. Vaughan's duty to make any communication upon the subject to the American Government before the result of the discussion was ascertained. After that result, (wholly unexpected in this country,) any such communication would have been not only useless, but might, perhaps, have been considered as an improper appeal against the formal decision of the American Legislature.

That Mr. Vaughan should not afterwards have been authorized to enter into any discussion of the Provisions of the act of 1825, 'so late as October last,' is not surprising, when it is considered that Mr. Vaughan immediately after the close of the Session of Congress, was instructed to announce the intention of his Majesty's Government to pass the Order in Council of July, (consequent upon the decision of the American Legislature,) by which the terms of the act of 1825 were virtually declined.

Mr. Gallatin accounts for the rejection of the resolution pro-

posed to the American Legislature, by the persuasion, which, he says, the Government of the United States entertained, that the negotiation on the subject of the Commercial intercourse between the United States and the British West India Colonies would be renewed.

The undersigned is at a loss to understand on what ground it was assumed at Washington, that there would be at all times, an unabated disposition on the part of the British Government to make the trade of its West India Colonies the subject of diplomatic arrangement.

The circumstances of the case were entirely changed.

Repeated negotiation had failed to produce any material approximation of opinions upon that subject.

The last attempt at an adjustment had been made, with an evident conviction on both sides, that there existed between them an unconquerable difference of principle : and that it was by that difference, rather than by any decided irreconcilableness of interests, that a satisfactory arrangement was rendered hopeless.

The nature of that difference has been sufficiently discussed ; it lies in the determination of the United States to dispute, and in that of Great Britain to maintain, the established distinction between general and colonial trade.

Great Britain had, therefore, an obvious motive for doing thenceforward whatever she might think it right to do, in relaxation of her colonial system, rather by the instrumentality of her own legislature than by compact with a state with which she disagreed in opinion, as to the principles of

colonial trade, so widely, that it would have been impossible to construct a preamble to a treaty on that subject, in the enunciations of which the two contracting parties should have concurred.

But there was yet another reason for avoiding further negotiations upon the subject.

Hitherto, when the trade with the British West India Colonies had been opened at all, it had been opened chiefly, though not exclusively, to the United States.

To no other country had it been opened by specific and positive convention.

But a time had now arrived, when from motives of general policy, Great Britain thought it advisable to allow access to her colonies to all foreign powers, without exception, on conditions tendered alike to all.

Such indiscriminate opening could only be effected by some process common to all those who were permitted or invited to take advantage of it; impartiality was thus maintained towards all parties, and the power of control over her own colonies was, at the same time, retained in the hands of the mother country.

The undersigned believes that he has now touched on every topic in the last note addressed to him by Mr. Gallatin, to which he had not had occasion to advert in former stages of their correspondence. He will not allow himself to be drawn again into a discussion of topics already more than sufficiently debated.

The undersigned trusts that it is unnecessary for him, in concluding this note, to return to Mr. Gallatin's assurances of the friend-

ly disposition of the United States of America, assurances equally sincere that there is the most cordial desire, on the part of Great Britain, to cultivate the friendship of the United States.

The ties of common origin, laws, and language, must always form strong bonds of national alliance between them. Their respective interests, well understood, harmonize together as much as their feelings.

But it has never yet been held a duty of international amity (any more than of friendship in private life) to submit to unequal compacts. Nor has it ever been held an offence against such duty, that a nation (any more than an individual) should decline to make such uncompensated sacrifices.

Between two nations as between two individuals most friendly to each other, there may sometimes happen, unfortunately, to exist some known subject of incurable difference of opinion. In any such case it is perhaps most advisable to keep that subject as much as possible out of sight, and to take care that it shall not interfere with the tenor of their general intercourse, and of their habitual relations.

The refusal to regulate the trade of our colonies by a commercial treaty, which the British Government may think (even if erroneously) disadvantageous to its interests, cannot give just cause of offence to any power whatever.

In the present instance, the undersigned is most happy to be able to qualify such refusal with the declaration, that it is not in any degree dictated by sentiments

either unfriendly or disrespectful to the United States, or by any indifference to the amicable adjustment of all other questions at present pending between them and Great Britain.

Of these questions, one has been already happily arranged since Mr. Gallatin's arrival in this country.

The undersigned looks forward with confidence, no less than with anxiety, to such an arrangement of the remainder as, effacing all traces of past discussions, and satisfying all fair and reasonable pretensions on both sides, may secure, for a long period of years to come, reciprocal good understanding and good will between the two kindred nations.

The undersigned has the honor,  
&c.

GEORGE CANNING.

ALBERT GALLATIN, Esq. &c. &c.

DEPARTMENT OF STATE, }  
Washington, 11th April, 1827, }

TO ALBERT GALLATIN,

*Envoy Extraordinary and Minister Plenipotentiary to Great Britain.*

SIR: In the letter which I addressed to you, on the 20th ultimo, I stated that it was my intention, in a few days, to prepare and transmit to you some instructions on the subject of the colonial trade. I shall now execute that intention; but before I proceed to the specific directions required by the present state of it, some few observations appear to be called for, on the two notes of Mr. Canning, under date the 13th November of the last, and 27th January of the present year. In

submitting these, it is not desired to subdue the repugnance which Mr. Canning expresses against being "drawn again into a discussion of topics already more than sufficiently debated." But, whilst the diplomatic relations between the two countries remain open, and sentiments of amity are professed on both sides, it would seem more consistent with that profession, and more in that spirit of candour as well as courtesy, which ought to animate the connections of friendly nations, to be willing both to give and to receive the correction of any misapprehension under which either may be labouring, than to permit such misapprehension to continue, perhaps, to the prejudice of both. The United States at least, whose whole course on this subject has ever been sincere, direct and open; who have never sought to arrogate to themselves any right or claim to question the power of Great Britain to give the law to her own colonies, nor advanced any other claim on their part, than the right to regulate their own commerce with foreign nations on fair and equal terms, owe it to themselves to disavow those peculiar and exorbitant pretensions which are intimated, in no very obscure terms, in the two notes of Mr. Canning; and to deny, in the most explicit manner, the rejection of any friendly overture from Great Britain, founded on equality with regard to this trade, which has ever been distinctly and intelligibly offered to their choice. To impute the contrary course of action to the Government of the United States, and to express, in the same paper, a determination



not to be drawn again into the further discussion of these topics, would seem to be closing the door studiously against all explanation, and not to harmonize very happily, either with professions of friendship, or with that natural respect and forbearance which have usually characterized the intercourse of equal nations in modern times. The United States, however, disposed rather to heal than to inflict wounds, and taking more pleasure in removing than in creating causes of dissatisfaction and complaint, are desirous that the Court of Great Britain shall be set right as to certain matters of fact, and certain principles of policy, maintained on our part, with regard to which, that Court is manifestly yet in error, and which seem to have had a material influence on their own decisions. Until those errors shall have been removed by a full and candid explanation, we shall not be satisfied that we have done all we ought to do to extirpate this germ of misunderstanding, and to restore those commercial relations between the two countries, which we are not less convinced than Mr. Canning, that it is equally the interest of both to maintain.

The general proposition laid down by Mr. Canning, that there is a right in a mother country (universally admitted among nations) to interdict to foreign nations a trade with her colonies, never has been controverted by this Government. But that is a very different proposition from the question which has been under discussion between the two Governments: which is, whether when the parent country, relax-

ing its colonial monopoly, chooses to open the trade of its colonies to foreign nations, these nations have not a right to examine, for themselves, the terms on which it is so opened, and to treat of such modifications of them as will secure reciprocity in the mutual intercourse. To contend that the parent country, in the case of such open trade, may exclusively prescribe the conditions on which it shall be carried on with foreign powers, to which conditions, without regard for their interests, they must submit, would be, in effect, to assume a right of legislation, not for the colonies only, but for such foreign powers. It is alleged by Mr. Canning, that "no other nation than the United States has ever complained of the interdiction of the trade to the colonies; because in all ages, all nations, having colonies, have maintained such an interdiction." If Great Britain had maintained the most rigorous prohibition of all intercourse between her colonies and this country, we should have had no right to complain, and we never should have complained. Our rights begin at that precise point when she chooses to allow a trade between her colonies and the United States. At that moment she departs from the principle of her colonial monopoly. At that moment a new party (the United States) is brought forward, and what before was under the exclusive control of one, becomes now a matter of consideration and arrangement between two. It is not at all extraordinary, that if, as is alleged by Mr. Canning, prior to the passage of the act of Parliament of July, 1825, no other

foreign nation than the United States had any trade with the British colonies, there should have been no complaints in regard to the terms of intercourse permitted by the British Government, put forward by other foreign nations. Where there is no commerce, in fact, there can be no cause of objection as to the abstract conditions on which it is proposed. Besides, most of the commercial nations of Europe are, at the same time, colonial powers; and it may be quite as convenient to them as to Great Britain, to assume the right to prescribe, exclusively, the terms on which the intercourse between their colonies and foreign States shall be allowed. We have seen, too, in the act of 1825, more favourable conditions offered by Great Britain to the colonial powers than to other nations. It would have been very remarkable if any of those powers had refused to accept such conditions. But the fact of acceptance implies the right of deliberation, and the consequent power of rejection.

So far as Mr. Canning places the right to trade between the United States and the British colonies, in British vessels alone, on the ground of usage, neither the principle nor the fact can be admitted to be with him. As to the first, a nation may find its interests in tolerating, even for a long time, a trade which is prosecuted on unequal or unjust terms. It may not be its policy to foster its navigation. It may find compensation in some branch of its foreign trade with other nations. But, from whatever cause it may choose to submit to the injustice,

no length of time can so far sanction it, as to confer a right on the power which puts forth unequal regulations, to insist upon their uninterrupted continuance: and it indisputably belongs to the party suffering under such injustice, to put an end to the unequal state of things whenever he thinks proper. As to the fact of this alleged usage, neither power can fairly go back to any period beyond the 4th of July, 1776. The usage on which Mr. Canning rests the British monopoly of the colonial trade, as it existed anterior to that epoch, would tend as much to sustain our side of the argument as the British. But, as Great Britain then gave law to the thirteen colonies, afterwards forming the United States, as well as to the British West India colonies, no argument can be rightfully drawn from the state of the usage prior to that period. During the war which succeeded, all commerce between the United States and the West India colonies was interrupted. Peace was restored on the 30th day of November, 1782. Now, if the usage contended for had existed, without disturbance from that day down to 1818, the duration of time would have hardly been sufficient, in the affairs of nations, to create any right by prescription.

But how stands the fact? From the date of the peace, up to that of the formation, in 1789, of the present Constitution of the United States, the history of the two countries presents frequent struggles on the subject of this very colonial trade. Several of the States sought, by their own separate legislation, to secure for

themselves a participation in it. The powers of the Old Congress, under the Articles of Confederation, were incompetent to the adoption and enforcement of a system of regulations for the trade, which should countervail those of Great Britain; and this incompetency was one of the most operative inducements which led to the establishment of our present Constitution. From that time down to the close of the European war, the trade had been generally open to the navigation of the United States, by repeated acts of British authority. Since the establishment of our present Constitution, further, since the peace of 1782, the trade has been open to us a longer period of time than it has been shut; and, if the right were to be decided by the mere fact of the greater duration of the usage, one way or other, the right would be with us.

Mr. Canning states these relaxations did nothing more than permit British vessels to bring certain articles into the colonial ports directly from the place of their production, instead of circuitously through the United Kingdom; and that it was a mere municipal concern, which did not vary the exclusive character of the colonial system. But they did something more. Whilst the supplies from the colonies, and their exports, were drawn through the mother country, the commerce of that mother country being open to the United States, their navigation could fairly participate in the trade. But when British vessels were allowed a direct trade between the colonies and the United States, to the exclusion of American shipping, it put an end to the circuit-

ous trade; and the navigation of the United States, if they submitted to the British monopoly of this direct trade, would be deprived of their fair proportion of the transportation of the subjects of colonial commerce, which they would have enjoyed through the parent country.

Whatever may be the abstract rights of Great Britain and the United States, in respect to the regulation of an intercourse between the British West India colonies and the United States, Great Britain did, in fact, consent to negotiate on that subject. She might have taken, and adhered to, the ground that she would not treat: but she did not. By consenting to treat, and by inviting the American Government to renew the negotiation, as late as March, 1826, more than eight months after the date of the act of Parliament, in July, 1825, we were forbidden to anticipate that without any sort of intimation, the door of negotiation was to be suddenly closed. If we had no right to assume "that there would be, at all times, an unabated disposition, on the part of the British Government, to make the trade of the West India Colonies the subject of diplomatic arrangement," it must be admitted that our surprise was quite natural that you, who were sent to England, among other reasons, in consequence of that very intimation in March, should, upon your arrival there in the succeeding July, and before the presentation of your credentials, be unexpectedly met by the announcement of a measure arresting, at the threshold, all negotiation on the colonial trade.

When two nations undertake to

arrange a matter of common interest between them in a given mode, if one of them, not only without, but in opposition to, notice to the other, should itself proceed, exclusively, to regulate, by a different and less friendly mode, that interest, it cannot be denied that there is just ground of complaint. Undoubtedly it is within the competence of a nation to refuse, after agreeing to negotiate, or to break a negotiation in any stage of its progress, without ascertaining the practicability of an amicable adjustment ; but this is not according to prevailing usage among friendly states.

We must think that the frankness of friendly correspondence required of the British Government to communicate the change of its resolution as to the manner of regulating the colonial trade, and at the same time an official communication of the act of Parliament of July, 1825. Had such communications been made, the American Government would have been prepared to consider, during the succeeding session of Congress, the conditions offered in that act. And, upon receiving from the British Government those explanations which the ambiguity of the act rendered necessary, Congress could have passed an act which might have proved satisfactory to both parties. By the forbearance to make those communications, we remained in entire ignorance of the altered purposes of the British Government, and in full confidence that it was their desire, as it was our expectation, to arrange the intercourse by convention.

Although, as is alleged by Mr. Canning, it is not the habit of the

two Governments reciprocally to communicate to each other *all* the acts of their respective Legislatures, when a particular act is passed which is intended to put aside a negotiation contemplated by both parties, there is an evident fitness, if not obligation, in point of frankness, to communicate it ; and there is believed to be no example in which, under such circumstances, any Government has failed to communicate its act.

But if it has not been the practice of the two Governments to interchange the whole body of their respective statutes, it has been usual, at least on the part of this Government, to communicate those which are the objects of negotiation. Repeated instances of such communications of acts of Congress imposing commercial restrictions, occurred during the late European war ; and the convention of 1815, with Great Britain, was made in pursuance of an act of Congress, which was officially communicated to the British Government.

So far from being accurate is the statement that the act of Congress of March, 1823, was not communicated to, the British Minister at Washington, that the bill during its progress in Congress, and in the form in which it passed, was communicated to him by the Secretary of State, and it became the topic of official conference and correspondence while on its passage, and of official correspondence between them, in less than a month after its enactment.

We do not mean now to allege that the omission to communicate the British act, was an intentional

discourtesy towards the American Government; but we do mean to aver that that omission, and the neglect to inform us that the act was to supersede all negotiation, combined with the explicit invitation of Mr. Vaughan to renew the negotiation, given as late as March, 1826, had the effect of misleading us in regard to the views of the British Government. It was to this end only that reference was made in your instructions of the 11th of November last, to the letter which had been addressed from the Department of State to a Member of Congress. That letter, which was never private, acquired, by being published in the gazettes of the day, and a copy of it having been, at the time, furnished to Mr. Vaughan, and transmitted by him to his Government, a public, if not diplomatic character, which fairly entitled it to be cited as evidencing the known views taken at Washington of the British act. The opinion expressed in that letter, that negotiation, and not legislation, was the instrument, in the contemplation of both Governments, by which they intended to regulate the colonial intercourse, was subsequently confirmed by the forbearance of the British Government to enforce the act of Parliament towards the United States. And yet, that very forbearance, which had the effect of deceiving us, though certainly not so intended, is now brought forward as a reason for declining to treat, and for closing the colonial ports. It is alleged, by Mr. Canning, to have been in consideration of the pendency of the proposition before Congress, for conforming to the conditions of the act of 1825.

If that had been stated at the time, we should not have been deceived.

Although that act did not relate specially to the United States, but addressed itself to all the foreign powers, the United States were the only power with which Great Britain was negotiating on its subject matter. And, as it now appears that it was intended to be a substitute for the negotiation, it is difficult to resist a conviction of the obvious propriety of its being communicated to the American Government, even admitting such a communication to have been unnecessary to other Powers.

Whilst the Government of the United States must ever insist that, so long as there is an intercourse between them and the British colonies, they have a clear right to participate in the regulation of that intercourse, their attachment to any specific mode of regulation has never been so strong as to exclude the accomplishment of that object in any other mode. They have preferred that it should be effected by convention; because, in that way, it would be more certain, binding, and durable, and, moreover, conformable to what they had just reason to suppose were the wishes of the British Government. Had they been apprized that it was the choice of that Government to regulate the trade by mutual acts of separate legislation, they could have had no difficulty in adapting their measures, in that respect, to those of the British Government.

Mr. Canning states: "that the act of 1825, offered like terms to all nations who were willing to purchase the right to trade with the colonies. Some have acceded to the terms. The United States

*would not.* They cannot feel it unkind or unjust that, having, upon a free and (as is known from the public proceedings of their Legislature) deliberate consideration, *declined* to subscribe to the terms on which exception from colonial prohibition was impartially tendered to all nations, they should find themselves, in common with such of those nations as have decided like themselves, liable to that exclusion which is, and always has been, the general principle of colonial trade."

No exception need now be taken to the regularity of a foreign Government in referring to the proceedings of the Legislature of another nation, which have terminated in no affirmative act, although the practice of a foreign Government looking any where but to the established organ of international intercourse for the acts and resolutions of Government, might have a most mischievous tendency.

Independent of all other considerations, the danger is, if a foreign Government undertakes to enter the halls of domestic Legislation, in order to comprehend the votes and resolutions on measures which have not been matured into the form of any legislative act, that such foreign Government may misconceive the motives and bearing of those votes and resolutions. Native citizens often find it difficult clearly to comprehend all the causes, in numerous assemblies, which may have occasioned the failure or passage of any given measure, or to assign, with certainty, the specific reason which may have led to either of those results.

We are quite sure that Mr. Canning had no wish to misconceive the proceedings which took place in Congress, in the session of 1825—26, in relation to the colonial question; and yet he has greatly misconceived them. He is even mistaken as to the branch of Congress in which those proceedings were had. There was no resolution proposed in the House of Representatives, and, consequently, no debate and decision upon it, such as he describes. For the purpose of correcting the errors into which he has been unintentionally drawn, I will now take some notice of those proceedings.

It is perfectly true, that, although the British Government made no official communication of the act of Parliament of July, 1825, the American Government, nevertheless, obtained possession of a copy of it.

It is also true, that such a petition from Baltimore, as Mr. Canning describes, was presented to Congress.

But it should be remarked, that the petitioners were uninformed of the negotiations of 1824, or of the correspondence which subsequently passed between the two Governments on the colonial subject. And it is not, therefore, improbable, that, if they had been aware that the American Government expected and were desirous to arrange the intercourse by treaty, they would have abstained from petitioning Congress.

The petition was referred, in both Houses, to the regular Committees. That of the House of Representatives made no report. The Senate's Committee report-

ed, (a copy of their report is now transmitted to you,) that, "from this view of the subject, and a cursory reference to the numerous acts which have been passed in relation to it, during the last ten years, both by the United States and by Great Britain, evidence will at once be furnished of the complexity of the interests connected with it, of the difficulty satisfactorily to arrange them, and especially of the inefficacy of isolated legislation for the attainment of this international object; and, also, affording, as the Committee cannot but believe, a strong ground of preference for an arrangement being effected, if practicable, by a Convention between the two Governments, on a just and liberal basis, which, when agreed to, would be permanent and unalterable for the term of its duration." Again: "from the Committee having reason to believe that an adjustment of the commercial intercourse between the United States and the British colonial possessions, forms one of the special and prominent objects which have been committed to the Minister of the United States at the Court of London; that a corresponding desire to arrange it on a satisfactory footing appears to exist on the part of the British Government; and that the negotiations respecting it, are expected to come to a definite issue before the next session of Congress; the Committee, although fully agreeing with the memorialists in the wish to cultivate and extend the trade in question, which they trust may be done to the mutual advantage of the parties concerned in

it, are still unanimously of opinion that it is not expedient, at this time, to legislate on the subject; and, therefore, ask to be discharged from the further consideration of the memorial."

This report, it should be borne in mind, was made to the Senate on the 31st day of March, 1826, only nine days after Mr. Vaughan had invited the American Government to renew the negotiation.

This report was recommitted, with an understanding, on the part of the Senate, that the Committee of Finance should report a bill repealing the discriminating duties. A bill was accordingly reported on a subsequent day, (a copy of which is, herewith, transmitted,) containing a repeal, and nothing but a simple repeal, of those duties.

This bill was reported near the close of the session, and, amidst the pressure of other business, was laid upon the table; a parliamentary disposal of it, which, far from implying its rejection, admitted of its being again taken into consideration during any hour of any remaining day of the session. There was, then, no decision on the merits of the bill, and there was no refusal, in either branch of Congress, to accede to the terms of the British act of 1825.

That there was no direct and final decision on it, has been alleged by the member of the Senate, who was most zealous in its support, to have been owing to the want of time. It is probable that that consideration had some influence; but it is most likely that the chief cause which prevented its passage, was the belief, generally entertained, that the co-

colonial subject was in a course of negotiation, and would be satisfactorily arranged by treaty.

Had the bill passed, it would have been in conformity with the expectations of the British Government, as they have been since communicated.

The first official information to this Government of the instructions transmitted to Mr. Vaughan, by which he was authorized, in the contingency of the passage of an act of Congress, to deliver a note declaring that the discriminating duties imposed upon American ships and their cargoes, in the West Indies, should immediately cease, is contained in Mr. Canning's note of the 27th January, 1827. No such information was communicated by Mr. Vaughan, during the session of Congress of 1825—6. If the bill which was before the Senate had passed into a law, it would not have been such a measure as was contemplated by the British Government; because it did not contain a repeal of the restrictions on British shipping, as to the circuitous voyage, which is now understood to be an indispensable requisite. We are altogether unable to comprehend why he was not instructed to communicate the offer of the British Government during the session of Congress; or for what purpose an allusion is now made to instructions which were not disclosed to the American Government, and which, having been locked up in the portfolio of the Minister, might, for all practical purposes, as well have never been given.

It cannot, therefore, be alleged, with any sort of propriety, that the American Government refused to accede to the terms of the act of

Parliament of 1825, nor that, upon a free and deliberate consideration, they have declined to subscribe to terms on which exception to colonial prohibition was impartially tendered to all nations. The American Congress has never had fairly before it, and, therefore, has never freely and deliberately considered the conditions of the act of 1825; and, consequently, it could not have, and has not, pronounced any decision on those conditions. Up to this day, we are far from being sure that we understand the terms on which that act tenders to foreign nations a participation in the colonial intercourse. Although Mr. Vaughan might not have been authorized to enter into any discussion of the provisions of the act, after the termination of the session of Congress, it was not unreasonable to expect that he was, at all times, prepared, by instructions, to explain the purport of its provisions.

The preceding review has been taken, not for the purpose of conveying reproach, but with the hope of satisfying the Government of His Britannic Majesty that the Government of the United States, ever animated by an anxious desire to preserve, extend and strengthen amicable relations between the two countries, and always frank and open in its correspondence and intercourse with foreign nations, has not, in regard to the colonial trade, deviated from its established character for good faith and fair dealing. From a careful and dispassionate consideration of all that has passed between the two Governments, on that subject, supposing which cannot be doubted, that each has been actuated by a sincere wish to ef-



fect a satisfactory arrangement of the terms of the intercourse, it is manifest that there has been a misconception of each other's views as to the mode of accomplishing that desirable object. Whether the American Government ought or ought not to have confided in their belief that it was the intention of the British Government, in the contemplated negotiation, to concur in the adjustment, by convention, of the conditions of the trade, the American Government did, in point of fact, so confide. Whether the British Government ought, or ought not to have expected the passage of an act of Congress, acceding to the conditions of an act of Parliament of 1825, it did, in point of fact, so expect it. We have been disappointed in the negotiation which was anticipated; the British Government has been disappointed in the legislation which it anticipated. Both travelling to the same place, we have each failed to reach the point of destination, by misconception of the course of the other. It is, now, useless and unavailing to dwell upon the past, which cannot be recalled. It will be more profitable and consistent with a friendly understanding between the two countries, to survey our present mutual position, and to ascertain, if it be now practicable, in any mode, to reconcile their respective interests, in regard to the colonial trade. It would not be very creditable to the councils of two great and enlightened nations, if they are substantially agreed as to the terms of that intercourse, and willing that it should be opened on those terms, that they should, nevertheless, put an entire stop to it, because they

had differed on the point whether those terms should be inserted in the form of a convention, or in that of reciprocal acts of legislation; or because they may not be able to agree on the abstract questions of *right, claim and usage*, which Mr. Canning has discussed. To persist in closing the trade on those grounds, might create doubts whether they were ever sincere in their mutual professions that it should be open.

It has been already stated that we preferred, for reasons which appeared to us to be solid, an arrangement by convention, rather than one by law; but that, at the same time, we were not so wedded to that mode of effectuating the object, as to prevent our surrender of it, in a spirit of conciliation, to the preference of Great Britain for a regulation of the intercourse by respective acts of legislative authority. We should have promptly yielded our preference, if we had been made acquainted with that of the British Government. There is one advantage in a legislative regulation, which an arrangement by treaty does not possess, and that is, that, if the amount of concession made in the law, to a foreign nation, is found, upon experiment, to be injurious to the domestic interests, the law can be at any time repealed;—whereas, the treaty must be allowed to have its operation, whatever that may be, during the whole term to which it is limited. From this difference in the effect of the two modes of regulation, a Government may be induced to grant commercial privileges by law, which it would not consent to throw into the more permanent and obligatory shape of conventional stipulations. On

the point, for example, at the circuitous trade between the United States and the United Kingdom, through the British colonies, the President, would consent, with much reluctance, to a stipulation in a treaty by which British navigation should be allowed the enjoyment of that trade to the exclusion of the shipping of the United States; whilst he would be willing that the experiment should be made, under reciprocal acts of the two Governments, revocable at the pleasure of either.

Under the influence of these considerations, the Government of the United States acquiesces in the decision which has been taken by the British Government, that the colonial trade shall be regulated only by law.

You will avail yourself of some fit occasion to communicate to the British Government the substance of this despatch, and the President's acquiescence in that decision; and you will at the same, or some other more suitable time, ascertain the disposition of that Government to open the trade by separate acts of the two Governments.

The President is willing to recommend to Congress, at its next session, 1st, to suspend, as to the British Government, the alien duties on vessel and cargo, and to allow the entry into our ports of British vessels, laden with the same kind of British produce, or British colonial produce, as American vessels can lawfully import; the British vessel paying no higher charges of any kind than American vessels are, under the same circumstances, bound to pay: and 2dly, to abolish the res-

triction contained in the act of the 1st March, 1823, confining the trade to a direct intercourse between the colonies and the United States; the effect of which will be to leave Great Britain in the exclusive possession of the circuitous trade between the United Kingdom and the United States, through the British colonies. You will inquire whether, if Congress should pass a law to the above effect, the Order in Council of July last will be revoked; the discriminating duties operating to the disadvantage of our vessels in the British colonial ports, will be abolished; and our vessels suffered to enjoy the privileges of trade and intercourse, according to the enactments of the act of Parliament, of the 5th of July, 1825?

Should the intercourse be opened on the above conditions, the American Government will have waived the demand heretofore made, that our produce should be received into the British colonial ports, paying no higher duties than similar produce pays in those ports, when imported from other parts of the British possessions. We should have regarded the above inquiry altogether unnecessary, and that, as a matter of course, the privileges of the act of Parliament would be extended to our navigation, upon the passage of such an act of Congress as the President now offers to recommend, but for the declaration contained in Mr. Canning's note of the 11th September last. According to that declaration, the British Government announced that "after having been compelled to apply to any country the interdict prescribed by the act of 1825,

it cannot hold itself bound to remove the interdict, as a matter of course, whenever it may happen to suit the convenience of the foreign Government to reconsider the measure by which the application of that interdict was occasioned."

If this Government had, upon full consideration, with a clear knowledge of the intention of Great Britain to regulate the colonial trade by law and not by treaty, rejected the terms of the act of Parliament, after fully comprehending the import of those terms, and, thereby, *compelled* Great Britain to apply to the navigation of the United States the interdict of the act of Parliament, the determination of the British Government, communicated in that declaration, would not furnish any just occasion of complaint. But the Government of the United States has never decided to reject those terms; and, from a candid and impartial consideration of all that has passed on the subject between the two Governments, it is manifest that we have, all along, been looking to a different mode of arrangement from that which now appears to have been in the contemplation of the British Government. We think that we were authorized so to look, by the official correspondence which passed between them; but whether that justified us or not, we did, in point of *fact*, depend exclusively upon an arrangement by Convention.

We can hardly suppose, under these circumstances, that the British Government, after the passage of such an act of Congress as you are now authorized to state that the President is willing to recom-

*mend, would refuse to remove the interdict which has been applied only to the navigation of the United States.* A denial to them alone, of the privileges of the act of Parliament of 1825, offered to all nations, would not be easily reconcilable with those friendly relations which it is the interest of both nations, as it is the anxious endeavour of the Government of the United States, to cultivate and maintain.

The time and manner of executing the instructions contained in this despatch, are confided to your judgment and discretion. You may have the advantage of local lights, which, at this distance, do not reach us. Judging with the aid of such as we possess it would, probably, be best for you, in the first instance, to deliver an official note, limited to a presentation of such of the preceding observations as are intended to refute some of the arguments and facts brought forward by Mr. Ganning, in his two notes of November and January last, and there leave the subject, without making the inquiry as to the practicability of an arrangement by mutual acts of legislation. In the correspondence to which that note may possibly lead; the British Government may disclose their purposes and intentions, without formally making that inquiry, which it would be better to avoid, if those purposes can be otherwise ascertained. The powers of the President are incompetent to open the trade now, without the concurrence of Congress. It will, therefore, be sufficient to obtain a knowledge of the disposition of the British Government,

in the event of the passage of such an act of Congress as has been intimated, in season for the next session. If the British Government should not itself spontaneously manifest that disposition, you will then make the inquiry herein directed. Some time in the approaching autumn, when if there shall have been any feeling of dissatisfaction produced in the British Government by the late proclamation, that feeling will have abated, may prove to be a suitable time to present the inquiry. But, I repeat, you will exercise, on this matter, your own judgment.

I am, with great respect, sir, your obedient servant.

H. CLAY.

MR. GALLATIN TO LORD DUDLEY.

*The Rt. Hon. Lord Viscount Dudley, &c. &c. &c.*

The undersigned, Minister of the United States of America, has the honour, in compliance with instructions received from his Government, to present to the consideration of Lord Viscount Dudley, His Majesty's Principal Secretary of State for Foreign Affairs, some further explanatory observations on the subject of the colonial intercourse, which have been suggested by the note of Lord Dudley's predecessor in office, of the 27th of January last.

It is not intended thereby to renew the discussion of abstract questions already sufficiently debated, but to remove such misapprehensions as may still be entertained of the views and proceedings of the Government of the United States on that subject.

The undersigned is instructed explicitly to state, 1st, that during the whole time which elapsed between the negotiations of the year 1824, and the Order in Council of July, 1826, the Government of the United States had entertained no doubt of the disposition of His Majesty's Government to renew the negotiations on that point, and to settle it by a conventional arrangement: 2ndly, that the conditions on which it was intended, by the act of Parliament of July, 1825, to open the trade to American vessels have never been explained or distinctly understood; that they had not therefore been deliberately considered by the American Congress; and that that body had not pronounced any decision on those conditions prior to the Order in Council of July, 1826.

The reasons which had induced the belief that his Majesty's Government was still disposed to negotiate on that subject, have already been stated.

Whatever might be the abstract rights of Great Britain, and her opinion of those rights, in respect to the regulations of an intercourse between her colonies and the United States, she had, in fact, consented to negotiate on that subject. She had, as late as March, 1826, eight months after the date of the act of Parliament of July, 1825, announced to the Government of the United States, her disposition to renew the negotiations generally, and without making an exception as to that point, which had been one of the subjects of the negotiations intended to be renewed. The act of Parliament had not been officially communicated, nor any intimation

given that it was meant as a substitute to negotiations.

It has not been unusual, at least on the part of the United States, to communicate such acts as may effect, or are connected with negotiations. The convention of 1815, was made in pursuance of an act of Congress, which was officially communicated to the Government of Great Britain.

With respect to that of March, 1823, the bill was, during its progress in Congress, communicated, by the Secretary of State, to His Majesty's Minister at Washington, and it became a topic of official conference between them while on its passage, and of official correspondence in less than a month after its enactment.

But it was because the act of Parliament of July, 1825, was intended by the British Government to supersede all negotiation, that the communication of such a change of its resolution as to the manner of regulating the colonial trade, was necessary to the only Power with whom Great Britain was negotiating on that subject. It is not alleged that the omission was an intentional discourtesy towards the American Government. But it is, nevertheless true, that, combined with the invitation of Mr. Vaughan, to renew the negotiations generally, it had the effect of misleading the United States in regard to the views of the British Government.

It was to this end only that reference was made to the letter addressed from the Department of State to a member of Congress. That letter, which was of a public nature, and had acquired, by a copy of it being furnished to Mr.

Vaughan, an official character, might, with great propriety, be appealed to as a conclusive evidence of the views taken, at that time, by the Government of the United States of the act of Parliament.

The opinion expressed in that letter, was corroborated by the subsequent forbearance of the Government of Great Britain to enforce that act towards the United States. This suspension, which has since been declared to have been in consideration of the pendency before Congress of propositions arising out of the acts had, for want of any explanation, the effect of confirming the United States in their belief that negotiation, and not legislation, was the instrument still in the contemplation of both Governments for regulating the colonial intercourse.

It is much to be regretted that the instructions transmitted to Mr. Vaughan, and referred to in the note of Lord Dudley's predecessor in office, of the 27th January last, did not authorize him to make any communication on the subject during the session of Congress. Had any explanation been given at that time, of the true meaning of the conditions offered by the act of Parliament, and of the ultimate views of His Majesty's Government, Congress would have been enabled and induced to deliberate and decide on those conditions.

It has, however, been inferred, from the public proceedings of the Legislature of the United States, that they had, on a free and deliberate consideration, declined to subscribe to the terms on which exemption from colonial prohibi-

tion was impartially tendered to all nations.

It may often happen, when referring to the proceedings of the Legislature of another nation, which have terminated in no affirmative act, that the votes and resolutions on measures which have not been thus matured may not be fully comprehended; that the motives and bearings of those votes and resolutions may be misconceived. Some notice will be taken of the proceedings alluded to, for the purpose of correcting the erroneous impression which they seem to have made.

A petition from Baltimore such as has been described by His Majesty's Secretary of State for Foreign Affairs, was presented to Congress. The petitioners were uninformed of the negotiations of 1824, and of subsequent correspondence between the two Governments. The petition was referred, in both Houses, to the regular committees. A separate motion for the repeal of the discriminating duties had been previously made in the House of Representatives, and had been referred in the same manner.

The Committee of the House of Representatives, whether knowing that the subject had been taken up in the Senate, or from any other cause, made no report. There was no resolution discussed in that House, and, consequently, no deliberation or decision upon it.

The Committee of the Senate understood a compliance with the request of the petitioners to be tantamount to an admission "of British vessels, indiscriminately, into the ports of the United States,

with their cargoes, from whence-soever arriving, or of whatsoever composed, on the same terms as American vessels, or those of the most favoured nations—which is the same thing;" and they reported, in substance, that there was a strong ground of preference for an arrangement being effected, if practicable, by a convention between the two governments, rather than to rely on independent acts of legislation, sometimes ambiguous, and at all times subject to revocation; that a corresponding desire to arrange that intercourse appeared to exist on the part of the British government; that the negotiations respecting it were expected to come to a definitive issue before the next session of Congress; and that it was not therefore expedient at that time to legislate on the subject.

This report was made to the Senate on the 31st of March, 1826, nine days after Mr. Vaughan's communication on the renewal of the negotiations.

It was recommitted, with an understanding that a bill should be brought in, repealing the discriminating duties. Such a bill was accordingly reported, a copy of which the undersigned has the honour to enclose, containing a repeal, and nothing but a simple repeal, of those duties.

The bill was, on motion, ordered to lie on the table, by a majority of two votes. This vote, the only one taken upon it, had no other effect but to prevent the bill being acted upon on that day. It might have been called up on any other day: but it had been brought in near the close of the session, and, whether from want

*of time, or, what is more probable, from reliance on the successful issue of negotiations, it was not acted upon. Had it been taken up, and passed into a law, it would not have been such a compliance with the terms of the act of Parliament of July, 1825, as was contemplated by Great Britain—since it did not repeal the restrictions laid, by a former act of Congress, on the circuitous or indirect intercourse.*

*It appears, from the course of the proceedings, and from the result, that the subject was not taken up in one of the Houses; and that, in the other, the precise purport of the terms offered by the act of Parliament, was not, at that time, more distinctly understood, than by the Executive; whilst the same reliance seems to have been placed in the result of the expected negotiations. It is certain that the conditions of the act of Parliament, such as they are therein expressed, were not taken into deliberate consideration by the American Congress, and that that body has never rejected nor pronounced any decision on those conditions.*

*Up to this day, it is still uncertain whether the real meaning of those terms is distinctly understood by the United States. The doubts entertained in that respect were stated at large in the note of the undersigned, of the 28th of December last; and no explanation has since, any more than at any former time, been given by His Majesty's government.*

*The preceding review has been taken, not for the purpose of complaining of the conduct of Great Britain, but with the hope of satisfying the government of His Bri-*

*tannic Majesty, by this exposition of the acts of the government of the United States, and of the impressions under which it acted, that it has not, in regard to the colonial trade, deviated from its uniform course, and relaxed its constant endeavours to preserve and strengthen the amicable relations between the two countries.*

*No doubt is entertained, on the other hand, of the dispositions of His Majesty's government, at the time when the act of Parliament was enacted, that, considering the intercourse between the United States and the British West Indies as beneficial, it was their intention that it should continue open on certain terms; and that, although these differed from those offered to most other commercial nations, and may also have been misunderstood, they would not have been found, when properly explained, to be altogether inadmissible. Had it been otherwise, the interdict laid on the American navigation, by the Order of Council of July, 1826, would at once have been embodied in the act of Parliament of July, 1825.*

*Both governments, actuated by a sincere wish to effect a satisfactory arrangement, have failed to attain that object, from a misconception of each other's views as to the mode of accomplishing it. Whilst the British government expected the passage of an act of Congress acceding to the conditions of the act of Parliament, the government of the United States confided in the belief that it was still the intention of Great Britain to arrange the subject by a Convention.*

*It is now unavailing to dwell*

upon the past, and to inquire whether either or both governments had sufficient reasons for their expectations. The fact is, that they entertained such expectations, and have both been disappointed; and it will be more profitable and consistent with the friendly understanding between the two countries, to attend only to the relative situation in which they are now placed.

The United States, though preferring a conventional arrangement, as more permanent, and perhaps more easily effected than one founded on mutual legislation, are not exclusively attached to any particular mode.

There is, indeed, this advantage in legislative regulation over conventional arrangement, in respect to subjects not fully tested by experience, that what may be deemed concession by either party, may, at any time, be modified, if found actually injurious.

Thus, for instance, the President of the United States would not, without reluctance, have consented to a treaty stipulation allowing that circuitous trade between the United Kingdom and the British Colonies through the United States, which, if permitted, must be enjoyed exclusively by the British navigation; whilst he is willing that the experiment should be made by virtue of reciprocal laws, revocable at the pleasure of either Government.

The undersigned is accordingly authorized to say, that under the influence of these considerations, the Government of the United States acquiesces in the decision which has been taken by the Government of Great Britain, that the

intercourse between the United States and the British colonies shall be regulated by the laws of the two countries; and the President is disposed to promote a restoration of that intercourse, founded on such respective laws.

The undersigned prays Lord Dudley to accept the assurances of his high consideration.

ALBERT GALLATIN.

MR. GALLATIN TO LORD DUDLEY.

*The Right Hon. Lord Viscount Dudley, &c.*

The undersigned, Minister of the United States of America, had the honour to address, on the 4th of June last, a note on the subject of the colonial intercourse, to Lord Viscount Dudley, His Majesty's Principal Secretary of State for Foreign Affairs.

The principal object of that note was to remove such misapprehensions as might still be entertained of the views and proceedings of the Government of the United States, on that subject, and at the same time to express the disposition of the President to promote a restoration of that intercourse, founded on the respective laws of the two countries.

This overture has been founded on the belief, that the present state of things has not arisen from any intentional act of either Government, but from misconceptions of each other's views, which must now be removed. It was the avowed intention of that of Great Britain, at the time when the act of Parliament of July, 1825, was enacted, that the intercourse should continue open on certain terms. For this, there could be no motive, but a con-



viction that the commerce which had, almost without interruption, been carried [on] from their first settlement, between the British West Indies and the United States was mutually beneficial. It is therefore, presumed to be the wish of both parties that an interdict which has been the result of fortuitous circumstances, may, if practicable, be removed.

Under that impression, the President of the United States is ing to recommend to Congress at its next session: 1st, to open again the ports of the United States to British vessels coming from the British colonies; allowing the entry, into the said ports, of British vessels, laden with such British produce, or produce of the British colonies, as American vessels can lawfully import, without paying any alien or discriminating duties, and on payment only of the same and no higher duties or charges of any kind, on either vessels or cargoes, than are, under the same circumstances payable by American vessels or cargoes; 2dly, to abolish the restriction contained in the act of Congress of March, 1823, which confines the trade to a direct intercourse between the British colonies and the United States.

The effect of this measure will be to leave Great Britain in the exclusive possession of the circuitous trade between the United Kingdom and the United States, through the British colonies. All the provisions in former acts of the American Government, which had been deemed objectionable by that of His Majesty, will thereby be repealed. The condition contemplated by the act of Parlia-

ment, as it is now understood, will be fulfilled. Every obstacle which heretofore prevented an arrangement, would, if this were still a subject of negotiation, to be removed.

The Government of the United States would have had no doubt that, upon the passage of an act of Congress of that tenor, the interdict laid on American shipping under the act of Parliament of 1825, would be removed as a matter of course, had it not been for the declaration contained in the note of His Majesty's Principal Secretary of State for Foreign Affairs to the undersigned, dated the 11th of September, 1826.

There was announced, that, "after having been compelled to apply to any country, the interdict prescribed by the act of 1825, the British Government cannot hold itself bound to remove that interdict as a matter of course, whenever it may happen to suit the convenience of the Foreign Government to reconsider the measures by which the application of that interdict was occasioned."

A subsequent act of Parliament contains provisions of a general nature, corresponding with that declaration, but continues to force the discretionary powers vested in His Majesty on the subject.

Under those circumstances, the President cannot, it would indeed be useless for him to make the intended recommendation to Congress, and to agitate the question anew, without having previously ascertained the intentions of His Majesty's Government. Though not bound to remove the interdict as a matter of course, the ques-

tion is whether they are disposed, under certain contingencies, to do it at this time.

The undersigned has therefore been instructed to inquire, whether, if Congress should, during its next session, pass a law to the effect above stated, the Order in Council of the 27th of July, 1828, will be revoked: the discriminating duties on American vessels in the British colonies be abolished; and those vessels be allowed to enjoy the privileges of trade and intercourse with those colonies, according to the act of Parliament of the 5th July, 1826?

He prays Lord Dudley to favour him with an answer to that inquiry, the object of which is only to ascertain the intentions of His Majesty's Government in reference to an act of the tenor aforesaid that should be passed by Congress at its next session.

It would be distinctly understood, that those mutual acts would not have the character of a compact, and that their only effect would be to open the trade for the time, without at all binding the parties; each remaining in the complete possession of its rights, with respect to that intercourse, in conformity with the terms of the commercial convention between the two countries.

The undersigned prays Lord Dudley to accept the assurance of his high consideration.

ALBERT GALLATIN.

August, 17, 1827.

*Mr. Gallatin to the Sec. of State.*

London 14th Sept. 1827.

*Hon. Henry Clay, Secretary of State, Washington.*

Sir: We resumed our confer-

ences on the 12th, made no progress, and are to meet again to-day.

I had, yesterday, an interview with Lord Dudley and Mr. Huskisson, on the subject of the colonial intercourse. Mr. Huskisson said that it was the intention of the British Government to consider the intercourse of the British colonies as being exclusively under its control, and any relaxation from the colonial system, as an indulgence, to be granted on such terms as might suit the policy of Great Britain at the time when it might be granted; that he was not prepared to say whether, or on what terms, it might be found expedient to open again the intercourse to American vessels, in case it was opened on the part of the United States, and their laws laying restrictions or imposing extra duties on British vessels should be repealed: and that an answer to that effect would be given to my note of 17th of August last, if his colleagues agreed with him in opinion.

I said that every question of right had, on this occasion, been waived on the part of the United States; the only object of the present inquiry being to ascertain whether, as a matter of mutual convenience, the intercourse might not be opened in a manner satisfactory to both countries. This being a pure question of policy, although Great Britain was the only judge of her own, it would be gratifying to be satisfied that she acted only from that motive, and that, in opening the trade to other countries that had not complied with her terms, and declining to open it to the United

States even in the event of such compliance, it was not her object to inflict a wanton injury; or, at least, to evince an unfriendly disposition towards them. I then entered into various details, intended to show why I was unable to discover any reason, founded on her own interest, for persisting in foreclosing the intercourse.

Mr. Huskisson explicitly disclaimed any unfriendly feeling towards the United States, and with respect to other nations, said that Russia was the only power to whom the trade in question had been opened, though she had not, in every respect, complied with the terms of Great Britain; but that, on other points, the British trade had been particularly favoured in that country. He did not give any explanation of the advantages derived to Great Britain from the present interdict, but dwelt strongly on the manner in which the advances made by the act of Parliament, of the year 1822, had been met on the part of the Government of the United States. He said it had appeared as if America had entertained the opinion that the British West Indies could not exist without her supplies, and that she might therefore compel Great Britain to open the intercourse on any terms she pleased.

I disclaimed any such belief or intention on the part of the United States. But it appeared to me, and I intimated it, indeed, to Mr. Huskisson, that he was acting rather under the influence of irritated feelings, on account of past events, than with a view to the mutual interests of the two countries. This was, of course, denied; but he remained immovable in the po-

sition he had assumed; and Lord Dudley, without taking a share in the conversation, which lasted near two hours, acquiesced in the opinion of his colleague.

I avoided, as far as possible, to renew the discussion on any thing that had heretofore taken place; and adduced, without producing any effect, every argument derived from mutual advantage, which the occasion suggested. These I omit as familiar to yourself, and it would be but repetition to state at large the complaints made of the conduct of the United States, from the year 1822 to 1825. But I must not forget to say, that Mr. Huskisson explicitly declared, that neither of the two bills which were under the consideration of Congress during its last session, would, if passed into laws, have induced his Government to remove the interdict on American vessels.

I may add some further observations on that subject, when the answer which I presume is intended to be given to my note of the 17th August, shall have been received.

I have the honour, &c.

ALBERT GALLATIN.

LORD DUDLEY TO MR. GALLATIN.

*Albert Gallatin, Esq. &c. &c.*

The undersigned, His Majesty's Principal Secretary of State for Foreign Affairs, has the honour of acknowledging the two official notes of the 4th of last June, and the 17th of last August, addressed to him by Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States, on the subject of the intercourse between the United States and the colonial possessions of Great Britain.

The note of the 4th of June, although it closed with a profession of the acquiescence of the American government in the decision of Great Britain, that the intercourse in question should be regulated by mutual laws, rather than by treaty, was yet directed chiefly to an explanation of certain circumstances in the conduct of the United States, and did not appear to the undersigned to call for any reply on his part.

In the succeeding note, however, of the 17th of August, the statements and reasonings of the former are followed out by Mr. Gallatin into a definite proposition, undoubtedly requiring from the British government a direct answer. In this note it is stated that the President of the United States is willing to recommend to Congress the adoption of certain measures tending to relax the restrictions imposed by the American Legislature on the intercourse of the United States with the British colonies, through the medium of British ships—which measures, Mr. Gallatin shortly specifies; and, it is asked whether, if Congress should, during its next session, pass a law to that effect, “the Order in Council of the 27th of July, 1826, will be revoked; the discriminating duties on American vessels in the British colonies be abolished; and these vessels be allowed to enjoy the privileges of trade and intercourse with those colonies according to the act of Parliament of the 5th of July, 1825?”

It is, at the same time, observed by Mr. Gallatin, that the Government of the U. States would have had no doubt that, on the enactment of such a law by Congress,

the interdict laid on American shipping under the act of Parliament of 1825, would be removed as a matter of course, had not Mr. Canning, in his letter to Mr. Gallatin of the 11th of September, 1826, declared, that, after having been compelled to apply the interdict to any country, the British government cannot hold itself bound to remove that interdict as a matter of course, whenever it may happen to suit the convenience of the foreign government to reconsider the measures by which the application of that interdict was occasioned.

Mr. Gallatin truly adds that an act of Parliament was afterwards passed containing provisions corresponding with the declaration so made by Mr. Canning.

The undersigned takes pleasure in recognizing in both these letters of Mr. Gallatin, and especially in the inquiry which closes the second of them, the same spirit of good will and conciliation which, in the midst of discussions involving no small difference of opinion, has characterized Mr. Gallatin's correspondence with the British government. The undersigned hopes it is unnecessary to observe that his Majesty's government is influenced by the same sentiments; and that, although he thinks himself bound to offer some observations on topics of debate, and conflicting interest, he presents them with no feelings but such as ought to pervade discussions between two nations allied in origin, and, he trusts he may add, allied also in desire to improve and strengthen the relations of ancient kindred, by mutual offices of kindness and amity.

Connecting the two notes of

Mr. Gallatin, the topics which they suggest for present consideration, seem to be three :

*First.* It may be expedient to observe on the declaration which Mr. Gallatin has quoted from Mr. Canning, and which appears to be regarded by the Government of the United States as a deviation from what might have been anticipated as the natural course of proceeding.

*Secondly.* Some comment may be offered on the explanation into which Mr. Gallatin has entered, of the conduct of the Government and the Legislature of the United States, in relation to the intercourse with the British colonies, under the operation of the act of Parliament of July, 1825.

And this course of observation will naturally introduce into view, in the

*Third place,* the proposition which forms the more immediate subject of the note of the 17th August.

1. With regard to the declaration of Mr. Canning ; the undersigned thinks it not unimportant to remark, that the sentiment which, in that declaration, Mr. Canning so pointedly expresses, is, in fact, exactly consistent with the general principles always professed by the British Government on the subject of colonial intercourse—which principles are expounded in the argument of Mr. Canning.

The leading position contended for by Mr. Canning, is this : that the exclusion of foreigners from a direct intercourse with the British colonies is altogether agreeable to the received and ordinary doctrines of the colonial policy of modern times. The established usage

of nations, possessing colonies, interdicts that intercourse to all but their own subjects. If such interdict be in any case relaxed, the case is one of exception ; and if, having once been relaxed, it is reinforced, this is but a restoration of the received rule.—The necessary consequence is, that, in any instance not governed by special regulation, it would be the continuance, and not the suspension, of the interdict, that would alone be contemplated as a matter of course.

In re-asserting these principles, and in immediately connecting them with the declaration, cited from Mr. Canning, it is by no means the object of the undersigned to revive a discussion which is already exhausted. He is desirous only of shewing that the reservation, which Mr. Canning, for his Government, makes of a discretionary continuance of the interdict in question, in every case in which it has been once imposed, is in entire harmony with the general maxims of colonial policy ; and consequently, that the application of the rule, in any given instance, ought not to be regarded as a proceeding of a singular, and, still less, of an unfriendly character.

In this connexion, however, the question may seem to arise, whether the proceedings of the United States were such as fairly to incur the application of the interdict in the first instance. The question is, in fact, involved in the explanations into which Mr. Gallatin has, at some length, entered, respecting the conduct of the United States, during the time that elapsed between the passing of the act of Parliament of July, 1825, and the

issuing of the Order in Council, of July, 1826. To those explanations, the undersigned will next briefly advert.

The effect of Mr. Gallatin's argument may perhaps be thus exhibited. Admitting that, after the British statute of July, 1825, was passed, the United States ought to have done certain acts to bring themselves within the benefit of that statute, yet the omission by the United States to do those acts, was not (as the British government supposed, when it issued the Order in Council, of 1826,) an advised and deliberate proceeding, but was the result of an erroneous impression respecting the views and intentions of the British government; and hence, there may appear some ground for a revision of the British Order in Council—that measure, having, in truth, been resorted to under the influence of a reciprocal mistake.

In commenting on this argument, it is not necessary to inquire whether, on the supposition that the error, or inadvertence, of the United States had been occasioned by some default on the part of the British government, that government would have been under an equitable obligation to reconsider the steps it had taken in ignorance of such error or inadvertence. There is no room for any such supposition.

Deeply as Great Britain must regret the misapprehensions, what yet they might be, under which the United States acted, she cannot, in justice, charge herself with having occasioned them. She cannot but think that a fair opportunity was afforded to the American government and people to avail themselves, if they thought fit, of

the provisions of the act of July, 1825; and the term of that option having expired, she cannot conceive herself called upon to retract, as a matter of course, the measures which under the actual circumstances in which she found herself placed, she was led to adopt, on a matter so peculiarly within her exclusive control as the trade of her own colonies.

It may be proper, however, to examine this subject a little more particularly. From the statement of Mr. Gallatin, it appears that the omission of the United States to comply with the conditions prescribed by the act of July, 1825, is resolvable into two causes: first, neither the government nor the Congress rightly understood those conditions, the interpretation of which, indeed, is represented to be a matter of difficulty. Secondly, the government, and probably the Congress also, entertained an opinion that Great Britain did not mean to affect the United States by the act of July, 1825; but intended to arrange the intercourse of that country with the British colonies by negotiation.

Mr. Gallatin is also at pains, on this part of the subject, to explain the proceedings in the American House of Representatives, respecting the bill for the repeal of the discriminating duties on goods imported in British vessels, from the British colonies. The bill, he observes, was not, as Mr. Canning had supposed, *rejected*; it was, by a majority of two votes, ordered to lie on the table; which would not have the effect of preventing the House from proceeding with it on any future day; though, either on account of the lateness of the session, or (what is more probable) from reliance

on the successful issue of negotiations, the consideration of it was not in fact resumed.

To begin with the point last mentioned, Mr. Gallatin, on the nature and effect of the proceedings in the House of Representatives, is of course an authority beyond exception. Even on that authority, however, it appears that the bill in question was dropped deliberately: for it was disposed of after a keen contest, and was never revived—a mode of treating it, which, judging from analogous proceedings in the legislative assemblies of this country, can hardly be regarded otherwise than as an effectual, though an indirect rejection.

But whatever construction may be put on the fate of that abortive measure, this, at least, may be asserted, that the Congress having, during a whole session, had the subject under consideration, designedly omitted to legislate in reference to the British act of July, 1825. The reason assigned for that omission, are next to be considered.

Mr. Gallatin very clearly states, that the conditions on which it was intended, by the act of July, 1825, to open the colonial trade to American vessels, were not distinctly understood in the United States; but what was the precise nature of the difficulty experienced in construing those conditions, the undersigned has not been able to collect: for, with regard to the specific doubts which Mr. Gallatin mentions as attaching to the meaning of the act, these he seems to state rather as suggesting themselves to his own mind, on a view of the provisions of the act,

than as the recorded grounds of the perplexity felt by the American government or legislature.

A full exposition of those doubts was in fact given by Mr. Gallatin, in his note to Mr. Canning of the 28th of December, 1826, and that exposition is, by reference, embodied in the note now under consideration, of the 4th of June; in which last note Mr. Gallatin observes, that no explanation in respect of those doubts has ever been given by his Majesty's government.

The portion of the act to which the remarks of Mr. Gallatin apply, is the condition on which the intercourse with the British colonies is opened to other countries, possessing no colonies of their own; namely, that they shall place the commerce and navigation of this country, and of its possessions abroad, upon the footing of the most favoured nations.

Without meaning to admit, or deny, the justice of Mr. Gallatin's criticism on that clause, the undersigned bears a willing tribute to its force and ability; but the question after all is, whether the clause referred to, threw such a practical difficulty in the way of American legislation on the subject as to account for the total inaction of the Congress of the United States? And to this question the last note of Mr. Gallatin (that is the note of the 17th of August) presents a conclusive answer. It there appears, that, notwithstanding those unexplained doubts, the American government has found no difficulty in tendering to the British government the passing of certain specific enactments by Congress, as the condition contemplated by

the act of July, 1825, that is, as the very condition which appeared so inexplicable.

Not only so, but it is observed in that note, as has already been mentioned, that, had it not been for Mr. Canning's declaration to the contrary effect, "the government of the United States would have no doubt that, upon the passage of an act of Congress of that tenor, the interdict laid on American shipping, under the act of Parliament of 1825, would be removed as a matter of course." It is unnecessary to remark that the conditions on which, under that act of Parliament, the interdict on American shipping would be revocable, are the very conditions on which the act makes foreign shipping admissible to the British colonies; the passage, consequently, just cited from Mr. Gallatin, shows that, whatever doubts might attach to those conditions, on the principles of severe construction, they seemed to the government of the United States so perfectly clear for all practical purposes, as to be susceptible only of one interpretation.

Even admitting, however, up to any required extent, the difficulty of construing the act, still it seems not easy to account for the inaction of the American legislature, and still less for that of the American government. The Legislature might be unable to determine what was precisely meant by the condition of placing the shipping of Great Britain, and her possessions abroad, on the footing of the most favoured nation; but there could be no doubt that the conditions in any construction of it, could never be fulfilled, so long as the discrimi-

nating duties remained unrepealed; that the abolition of those duties was, therefore, an essential term in the condition; and that this term could be applicable only by an act of Congress. If, however, the legislature could not thus proceed, at least the government, which must have felt with it, had an effectual remedy for every difficulty—that of reference to Great Britain for explanation; and the undersigned is really at a loss to conceive why the whole session of 1825—26, was suffered to pass away without any resort to an expedient so obvious and decisive.

Besides, however, the alleged ambiguity of the British enactment, there was a concurrent cause which prevented the government and legislature of the United States from taking any steps relating to it. They were satisfied that the British government either considered the United States as exempt, or meant to take special means of exempting them, from the operation of the enactment; and that the commercial relations between the United States and the British colonies were, after all, to be arranged by treaty, and not by reciprocal laws.

The grounds on which this persuasion was entertained, are very fully set forth and discussed in the correspondence between Mr. Gallatin and Mr. Canning; and the subject appears so nearly exhausted, that the undersigned sees no occasion for entering into it at large.

It is, indeed, self-evident that the Government of the United States set out with a very mistaken opinion of the views of Great Britain respecting her colonies,



and more especially respecting the importance to those colonies of a direct intercourse with the ports of the United States. This, at least, seems the only principle which would account for what is otherwise so difficult of explanation ; namely, that, from the very few, and, at best, doubtful indications alluded to in the correspondence, the Government of the United States should not only have inferred intentions on the part of the British Ministry, which, *prima facie* at least, were in direct contrariety to an elaborate act of Parliament recently introduced by that very Ministry, but should have deduced such inference so confidently as to act upon it for months together, implicitly, although, during all that period, it received no support or confirmation of any kind, from the British Government ; and although it was more than once, in official communication with the American Government, strongly discountenanced by the British Minister at Washington.

The supposition entertained by the United States, consisted of two alternative members ; the first of which was, that the British Government did not mean so to construe the act of July, 1825, as to comprehend the United States within it, at all ; that is, in an act professedly regulating the intercourse of the British colonies with all foreign countries, the description, “ countries not having colonial possessions,” did not include the United States ; although it is admitted that no other expression in the act can possibly apply to the United States ; although this very negotiation proves the

pre-eminent interest of the United States in the subject of the enactment ; and although Mr. Gallatin himself observes, that, “ with the exception of some of the German States, the terms of the enactment apply to no other maritime power.”

But, if the act could not be so construed, then it was believed that the British Government must be intending to exclude the United States from the sphere of it, by a special Order in Council. This supposition is indeed less violent than the former—the enactment being expressly subject to the exception, “ unless His Majesty, by his Order in Council shall in any case deem it expedient to grant the whole, or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country.”

Yet, surely, it was a little premature to assume that the British Government would gratuitously step forward to nullify the important rule which she had just enacted in the very case to which (on this supposition) it pre-eminently applied. Still more, that she should, without reason shewn or asked, deviate from those principles of reciprocity for which she had been so strenuously contending ; and deviate from them in the case of that very nation to which she had, in regard to those very principles, been making frequent and unsuccessful remonstrances. And most of all does it seem remarkable, that this persuasion adopted by Mr. Clay, in December, 1825, when he felt satisfied that the expected Order in Coun-

• cil was already on its way to America, should have been left wholly unshaken by the lapse of six months, during which no such order arrived, nor the remotest intimation of its being passed or intended.

It will not for a moment be imagined that, by these observations, the undersigned intends to cast any doubt on the explanation which has been given of the proceedings of the United States on the occasion alluded to, or to question the motives which dictated those proceedings. But he deems it due to his own country, due indeed to both the countries involved in these discussions, that each party should state its opinions and impressions with perfect frankness—a frankness indeed, of which Mr. Gallatin himself has very honourably furnished an example, and which the undersigned deems not only consistent with friendly feelings, but even essential to a mutual good understanding and confidence. It is then, in the judgment of the undersigned, important to show, and with all proper deference, he conceives himself to have, in fact, shown that the misapprehensions with regard to the views and intentions of Great Britain, by which the Government and the Legislature of the United States appear, in the present instance, to have been misled, were not warranted by any part of the conduct or the language of the British Government; and that this country, therefore, is not responsible for those misapprehensions, nor obliged, as of course, to reconsider any measures on her own part, or to repair any ill consequences on

the part of others to which they may have given rise.

And hence, the undersigned is naturally led to the third and only remaining topic of the present note.

Mr. Gallatin asks, whether, in the event of such a law as he describes being passed by Congress, the British Government would revoke the Order in Council of the 27th of July, 1826, and adopt the other measures which he concurrently mentions?

• The undersigned does full justice to the frank and friendly tone in which this inquiry is made; and he feels that the answer of the British Government ought, in the same proportion, to be explicit.

Without commenting on the particular provisions of the law which, according to the supposition of Mr. Gallatin, is to be enacted by Congress, it is proper to say that the British Government cannot prospectively commit itself to the adoption of any specific line of conduct, in the event of such law being enacted.

With whatever conformity to the suggestion of Mr. Gallatin, the proposed law may, as to its general principles, be framed; still, those general principles, are liable to be accompanied by details, which no anticipation can embrace.

Much, also, may turn on the position and circumstances both of this country, of the United States, and of the commercial commonwealth in general, at the time when such law come into effect. This last consideration is indeed conclusive; for it has relation to the very essence of the principles which the British

Government entertains on the present subject. Strictly asserting her right to prohibit or to regulate the intercourse of foreigners with her colonies, according to her conception of her own interests, and without explanation or apology to other States, it would be impossible for Great Britain, without a compromise of her principles, to pledge herself by advance, and with reference to circumstances yet unknown, or partially foreseen, to the establishment of any particular system of policy in relation to such intercourse.

On another, and distinct ground, the mode of proceeding suggested by Mr. Gallatin seems liable to exception. In adjusting her colonial relations with foreigners, this country has preferred the method of municipal legislation to that of treaty; and the United States have at length acquiesced in that preference, though not themselves approving it. The process recommended by Mr. Gallatin (and which, if adopted, must become a precedent,) would seem to combine the disadvantages of both methods without proportionally securing the benefits of either. If the terms of colonial intercourse are to be adjusted by mutual laws, but those laws themselves are to be founded on informal agreements, previously entered into between the Governments, it is manifest that a course of proceeding is pursued, which fully ensures neither the certainty and notoriety of international convention, nor the facility and independence of domestic legislation.

On the whole, His Majesty's Ministers feel themselves under

the necessity of declining to give the pledge invited by Mr. Gallatin; and this with no special or exclusive reference to the peculiar measure in question. Their resolution is the result of considerations, general in their nature, and conclusive against a prospective pledge of any description respecting the colonial policy of Great Britain, whether of relaxation or restriction.

In the formation of this decision, the undersigned is persuaded that it is unnecessary to disclaim the influence of any unfriendly feelings towards the United States. He can only repeat that the British Government cherishes, for the United States, sentiments only of sincere amity.

The undersigned has the honour to renew to Mr. Gallatin the assurance of his high considerations.

DUDLEY.

Foreign Office, Oct. 1, 1827.

MR. GALLATIN TO LORD DUDLEY.  
*To the Rt. Hon. the Earl of Dudley, &c. &c.*

The undersigned, Minister of the United States, has the honour to acknowledge the receipt of the note addressed to him, on the first of this month, by Lord Dudley, His Majesty's Principal Secretary of State for Foreign Affairs, in answer to the notes of the undersigned, of the 4th of June, and 17th of August last, on the subject of the colonial intercourse.

It is believed, that Lord Dudley would, on a close examination of the measures which the President of the United States was willing to recommend to Congress, have been satisfied that

those measures would not only have tended to relax, but would have altogether abrogated all the restrictions imposed by the American Legislature on the colonial intercourse through the medium of British vessels.

The objection drawn from an anticipation of the details, which might have accompanied the general principles of the proposed law, would have been easily removed. And those that are suggested against the process recommended by the American Government, seem less conclusive against it, than supporting the preference which the United States had given to an arrangement by treaty.

But since His Majesty's Ministers are of opinion that much may turn on the position and circumstances of Great Britain, of the United States, and of the commercial world in general, when such laws should come into effect; and since, in declining to give the pledge invited by the overture of America, they have explicitly declared that their resolution was the result of considerations general in their nature, and conclusive against a prospective pledge of any description respecting the colonial policy of Great Britain; the undersigned, whose efforts to obtain a more favourable answer to the inquiry he had been directed to make, have been unavailing, has no other duty to perform, in that respect, than to transmit to his Government the determination of that of Great Britain.

It is with regret that the undersigned finds that Lord Dudley, who had at first considered the note of the 4th of June as not

calling for any reply, has now deemed it necessary to offer some comment on the explanations contained in that note, of the conduct of the Government of the United States, in relation to the colonial intercourse, subsequent to the act of Parliament of July, 1825. He had designedly separated the explanations from the inquiry, and suffered more than two months to elapse between his two notes, in order to afford sufficient time for any reply which that of the 4th June might require, and in order that the discussion on the topics embraced by it being finally concluded, the proposal he had to make might be taken into consideration, without any retrospect of antecedent circumstances, and solely as a question of policy and mutual convenience. It is with unfeigned reluctance that he finds himself compelled again to revert to points already so much debated, and to take some notice of Lord Dudley's observations on explanations which it had been hoped, would have been deemed satisfactory.

It is correctly stated that the reasons alleged by the United States for not having complied with the condition prescribed by the act of Parliament of July, 1825, were, first, because the opinion was entertained, that it was still the intention of Great Britain that the intercourse should be arranged by negotiation: secondly, because it was not known whether the condition was rightly understood.

On the last point, Lord Dudley seems to think that the doubts which the undersigned had mentioned as attaching to the meaning

of the act were rather the suggestions of his own mind, than the recorded grounds of the perplexity felt by the American Government or Legislature. And he infers, from the specific proposal contained in the note of the undersigned of the 17th of August, and from an allusion to a declaration of Mr. Canning, that the condition in question, had seemed to the Government of the United States so perfectly clear for all practical purposes, as to be susceptible only of one interpretation.

The note of the undersigned, in which he tried to explain in what consisted the difficulty of understanding what was meant by the condition of the act of Parliament, is that of December 28, 1826; and that note was explicitly stated to be founded on "a despatch from the Secretary of State of the United States, the substance of which he was instructed to communicate to Mr. Canning." The statement of the doubts attaching to the meaning of the act, though varied in the expression, was, in substance, taken from that despatch; which, although it has not attracted the notice of Lord Dudley, was communicated to Congress, and republished in December or January last, in several of the London newspapers.

But as, notwithstanding this, doubts may still be entertained respecting the recorded grounds of the perplexity felt on that subject by the American Government and Legislature, during the session of 1825, 1826, the undersigned has the honour to enclose a copy of the report of the committee of the

Senate, of March, 31, 1826; to which he had already alluded in his note of 4th of June.

This document will satisfy Lord Dudley that the Committee had under consideration the Baltimore memorial, requesting that British vessels, from whatever ports, might be admitted (in the ports of the United States) on the same terms as the vessels of the most favoured nations; and that the Committee's report against the prayer of the petitioners was founded on two reasons: first, that, to admit British vessels indiscriminately, with their cargoes, from whencesoever arriving, or of whatsoever composed, on the same terms as vessels of the most favoured nations, or, in other words, to comply with the condition of the act of Parliament, as understood by the Committee, would operate as a surrender of the principle of equality, &c. Secondly, that a (corresponding) desire to arrange the colonial intercourse on a satisfactory footing, appeared to exist on the part of the British Government; and that the negotiations respecting it were expected to come to a definitive issue before the next session of Congress.

To this day, the Government of the United States are not sure that they understand precisely what was intended by the condition. Desirous as they were that their proposal should be accepted, they wished to present it in the most unexceptionable form; and if, instead of offering to comply with the act of Parliament, which certainly was the most simple proposition, and the most likely to be favourably received, a specific

proposal has been made, it is, in fact, because it was thought unsafe to agree to terms not sufficiently understood, and which have not been explained.

It has been<sup>a</sup> justly observed by Lord Dudley, that the abolition of the discriminating duties must, under any construction of the act, have been an essential term in the condition. The undersigned in his note of December 28, 1826, when observing that the words "commerce and navigation of this country," might have been intended to include only the circuitous intercourse, expressly stated, what was true, that "this last interpretation had been suggested only by the observations that had occurred in the course of Mr. Canning's correspondence with him." Mr. Canning had limited his animadversions on the acts of the United States to two enactments only—the discriminating duties, and the restrictions on British vessels employed in what has been called the circuitous or indirect intercourse. The specific proposal made by the United States, embraces those two objects. Having no other light but was derived from the correspondence, they presume, without being certain that they were not mistaken, that it might be accepted as a fulfilment of the condition. The intimation that they would have considered the removal of the interdict as a matter of course, had it not been for Mr. Canning's declaration, is clearly to be understood as founded on the supposition that they were not mistaken in the interpretation, which, for the reasons that have been stated, they had ventured to give to the act of

Parliament. But it cannot certainly be inferred, that, because in framing a proposal, and reasoning upon it, they have been induced to adopt, or rather to assume, a certain construction they no longer have, much less, that they never had, well founded doubts on the meaning of the act.

It is rather remarkable that, after those doubts had been so explicitly stated in the note of December 28, 1826, to Mr. Canning, he did not even advert to that branch of the discussion in his reply of January 27, 1827: and still more so, that Lord Dudley, whilst commenting upon it, should have carefully avoided giving any explanation; and, on the contrary, should have distinctly said, that he neither admitted nor denied that the construction, which the undersigned had suggested as being the literal, and which Lord Dudley designates as the severer interpretation of the act. The undersigned is at a loss how to account for the reluctance which seems to have been evinced, of saying, at once, what was truly intended by the condition so often alluded to.

The final disposition of the bill, which had been introduced for the repeal of the discriminating duties, even if considered as an absolute rejection, proves only that, either it appeared to be unnecessary, as not fulfilling all the conditions required by the act of Parliament, or that the American Legislature relied on the issue of the expected negotiation.

If the Government of the United States did not apply to that of Great Britain for an explanation of the condition, it was partly

because the distance between the two countries would have rendered such explanation unavailing in relation to any proceedings of Congress during the pending session, principally because entire reliance was placed on the issue of the negotiations; since the Cabinet of Washington had concluded to withdraw all the propositions which had heretofore prevented an arrangement.

The reasons why not the slightest apprehension was entertained of the determination of the British Government to consider this as no longer a fit subject for negotiations have been repeatedly stated.

At the conclusion of the conferences of the year 1824 between the Plenipotentiaries of the two countries, the negotiations were expressly stated to be *suspended* by the necessity of referring to Washington on some of the subjects which had been discussed; and the Plenipotentiaries parted under circumstances which prevented, *for the present*, any further progress in the negotiations.

Indeed, those which have been carried on between His Majesty's Plenipotentiaries and the undersigned, have been so clearly considered as being generally the continuation of the negotiations of 1824, that at their first conference, and in relation to the subject first taken up, the British Plenipotentiaries observed, "that a proposal of settlement on that subject having been offered on the part of Great Britain during the course of the negotiations in 1824, which proposal had been taken by the American Plenipotentiary for reference to his Government, they presumed that Mr. Gallatin was prepared to give an answer to that, or to offer

some new proposal." And the American Plenipotentiary did accordingly *substitute* another for that which had been made by Mr. Rush in 1824.

There was, therefore, a perfect understanding between the two Governments, in that respect. His Majesty's Minister at Washington, in conformity with it, announced, in March, 1826, to the Government of the United States, that his own was preparing to proceed in the important negotiations between the two countries; that a new Plenipotentiary had been appointed on the part of Great Britain; and that the negotiations would, therefore, forthwith be resumed.

No exception had been made—none was at the time suggested to be intended on the part of Great Britain, with respect to the colonial intercourse.

Lord Dudley has taken no notice of the circumstances which so naturally induced the American Government to rely on the ensuing negotiation, as the means of regulating the intercourse in a manner satisfactory and beneficial to both countries. But, referring to a letter of December, 1825, from Mr. Clay to a member of Congress, he has expressed his astonishment, that it could have been supposed that the British Government did not mean so to construe the act of July, 1825, as to comprehend the United States within it; and that, if it had been at first presumed that they would be excepted by a special Order in Council, that expectation should have been unshaken, when after six months, no such order had been issued, nor intimation given to that effect.

It has not been believed by the Government of the United States that, in case an arrangement was not made by treaty, they would nevertheless, by special favour, be permanently exempted from the general operation of the act. But, it was presumed that Great Britain, under the expectation of a favourable issue of the negotiations that were to be forthwith resumed, would suspend the operation of the act in regard to the United States, until the result of those negotiations was ascertained. In what manner that suspension would be effected was not known.

Mr. Clay's letter is written entirely in that spirit. He did not believe that it was intended by the British Government that the act of July, 1825, should disturb the trade between the British colonies and the United States; first, and principally, because it would be inconsistent with negotiations between the two Governments, contemplated, if not yet resumed. Had it not been that it had been announced by the authorities of Halifax, that it was intended to close that port against American vessels, he would have been strongly inclined to think that the intercourse was intended to continue to be regulated by the former acts of Parliament. If the Halifax construction should prove to be correct, he was persuaded that an exception in favour of the American trade would be made by a special Order in Council.

It is true, that no such order was issued, and equally true that, after the lapse of a few weeks, neither Mr. Clay nor any other person in America expected that it would be issued. For, the Halifax construction having been abandoned,

and that as well as all the other British colonial ports remaining open to American vessels, after the day when the act of Parliament was to take effect, it was concluded, without further investigation, that that act was not intended, at least for a time, to operate on the United States. It has since been made known that the suspension, which in fact took place, was intended by Great Britain, not in reference to negotiation, but in order to ascertain the result of the proceedings in Congress.

Lord Dudley intimates that the Government of the United States set out with a very mistaken opinion of the views of Great Britain respecting her colonies, and more especially respecting the importance to those colonies of a direct intercourse with the ports of the United States; and he seems to think that this is the only principle which would account for some of the proceedings of that Government.

Coinciding entirely in Lord Dudley's opinion, that perfect frankness is not only consistent with friendly feelings, but even essential to a mutual good understanding and confidence, the undersigned will be as explicit on this as on any other subject. The United States do not suppose the direct intercourse between their ports and the British colonies to be necessary to those colonies. They know that the British West Indies have been supplied by other means, and have not materially suffered during those periods when that intercourse was interrupted by war, or has been interdicted by the laws of the two countries.

But, though not necessary to



either party, that commerce is known to be beneficial to both. The proof is found in the fact that it has always been carried on to a considerable extent whenever it has been permitted ; that absolute prohibitions can alone stop it. That Great Britain thinks so herself, cannot be denied. It is believed that, except when the two nations have unfortunately been at war, there has not, to this day, been any time at which the intercourse has not, with certain limitations, been allowed by her, in British vessels.

There are not perhaps, two countries, within the same distance from one another, and with such easy and prompt communications, which have products so essentially different as the West Indies and the United States. There are, therefore, not any, between which commerce is more natural, and the exchange of their respective commodities more mutually beneficial. The laws, which interdict such an intercourse, are an obvious and practical departure from those principles of free trade, which, in other respects, are so ably upheld and vindicated.

It is not at all asserted that the injury arising from a suspension of that commerce, is more heavily felt by one party than by the other. The American Government neither overrates the importance to the West Indies of the direct intercourse, nor denies its great utility to the United States.—In both countries the planter or farmer is, by the suspension, deprived of one of the markets for his produce,

and compelled to pay dearer for his supplies ; and a positive evil is inflicted on both parties, without any visible advantage to either.

The right of Great Britain to regulate the intercourse with her colonies, is not questioned ; and it is not usual for nations to make any great sacrifice, for the sake of asserting abstract principles which are not contested. She is, undoubtedly, the only proper judge of what should be her commercial policy. The undersigned has not been fortunate enough to be able to discover what actual advantages she derives from the measures in which she perseveres in regard to the colonial intercourse. He has apprehended that considerations foreign to the question, might continue to oppose obstacles to a proper understanding. Nothing has been omitted to remove those which might have arisen from misconceptions of the views and proceedings of the American Government. It is gratifying to have received assurances that the decision of Great Britain was not influenced by any unfriendly feelings towards the United States. Their sentiments for Great Britain are those of amity and good will ;—and their Government is animated by a sincere desire to improve and strengthen the friendly relations of the two countries.

The undersigned has the honour to renew to Lord Dudley the assurance of his high consideration.

ALBERT GALLATIN. |

October, 3, 1827.

## CORRESPONDENCE ON THE NAVIGATION OF THE ST. LAWRENCE.

## B

*American paper on the Navigation of the St. Lawrence.—18th Protocol.*

The right of the People of the United States to navigate the river St. Lawrence, to and from the sea, has never yet been discussed between the Governments of the United States and Great Britain. If it has not been distinctly asserted by the former, in negotiation, hitherto, it is because the benefits of it have been tacitly enjoyed, and because the interest, now become so great, and daily acquiring fresh magnitude, has, it may almost be said, originated since the acknowledgment of the independence of the United States, in 1783. This river is the only outlet provided by nature for the inhabitants of several among the largest and most populous States of the American Union. Their right to use it, as a medium of communication with the ocean, rests upon the same ground of natural right and obvious necessity heretofore asserted by the Government in behalf of the people of other portions of the United States, in relation to the Mississippi River. It has sometimes been said, that the possession by one nation of both the shores of a river at its mouth, gives the right of obstructing the navigation of it to the people of other nations living on the banks above; but it remains to be shown upon what satisfactory grounds the assumption by the nation below of exclusive jurisdiction over a river, thus situated, can be placed. The

common right to navigate it, is, on the other hand, a right of nature. This is a principle which, it is conceived, will be found to have the sanction of the most revered authorities of ancient and modern times: and, if there have been temporary occasions when it has been questioned, it is not known that the reasons upon which it rests, as developed in the most approved works upon public law, have ever been impugned. As a general principle, it stands unshaken. The dispute relative to the Scheldt, in 1784, is, perhaps, the occasion when the argument drawn from natural right was most attempted to be impeached. Here the circumstances were altogether peculiar. Amongst others, it is known to have been alleged by the Dutch, that the whole course of the two branches of this river, which passed within the dominions of Holland, was *entirely artificial*; that it owed its existence to the skill and labour of Dutchmen; that its banks had been reared up at immense cost, and were in like manner maintained. Hence, probably, the motive for that stipulation in the treaty of Munster, which had continued for more than a century, that the lower Scheldt, with the canals of Sas and Swin, and other mouths of the sea bordering upon them, should be kept closed on the side belonging to the States. But the case of the St. Lawrence is totally different. Special, also, as seemed the grounds which the Dutch took as against the emperor of Germany, in this

case of the Scheldt, and, although they also stood upon a specific and positive compact, of long duration, it is, nevertheless, known that the public voice of Europe, on this part of the dispute, preponderated against them. It may well have done so, since there is no sentiment more deeply and universally felt than that the ocean is free to all men, and the waters that flow into it, to those whose home is upon their shores. In nearly every part of the world we find this natural right acknowledged, by laying navigable rivers open to all the inhabitants of their banks; and, wherever the stream, entering the limits of another society or nation, has been interdicted to the upper inhabitants, it has been an act of *force* by a stronger against a weaker party, and condemned by the judgment of mankind. The right of the upper inhabitants to the full use of the stream, rests upon the same imperious wants as that of the lower; upon the same intrinsic necessity of participating in the benefits of this flowing element. Rivers were given for the use of all persons living in the country of which they make a part, and a primary use of navigable ones is that of external commerce. The public good of nations is the object of the law of nations, as that of individuals is of municipal law. The interest of a part gives way to that of the whole; the particular to the general. The former is subordinate; the latter paramount. This is the principle pervading every code, national or municipal, whose basis is laid in moral right, and whose aim is the universal good. All that can be required under a principal so incontestible,

so wise, and, in its permanent results upon the great fabric of human society, so beneficent, is, that reasonable compensation be made whenever the general good calls for partial sacrifices, whether from individuals in a local jurisdiction, or from one nation considered as an integral part of the family of nations. This is accordingly done in the case of roads, and the right of way, in single communities; and is admitted to be just, in the form of moderate tolls, where a foreign passage takes place through a natural current, kept in repair by the nation holding its shores below. The latter predicament is not supposed to be that of the St. Lawrence at this day, since it is not known that any artificial constructions, looking simply to its navigation, have yet been employed, either upon its banks, or in keeping the channel clear. This has been the case, in connexion with other facilities and protection afforded to navigation, with the Elbe, the Maese, the Weser, the Oder, and various other rivers of Europe that might be named: and the incidental right of toll has followed. It may be mentioned, however, as a fact, under this head, that the prevailing disposition of Europe defeated an attempt, once made by Denmark, to exact a toll at the mouth of the Elbe, by means of a fort on the Holstein side, which commanded it. The sound dues have been admitted in favour of Denmark, but not always without scrutiny, and only under well established rules. We know that, under some circumstances, and with due precautions, a right is even allowed to armies to pass through

a neutral territory for the destructive purposes of war. How much stronger, and more unqualified the right to seek a passage through a natural stream, for the useful and innocent purposes of commerce and subsistence! A most authentic and unequivocal confirmation of this doctrine, has been afforded, at a recent epoch, by the parties to the European alliance, and largely, as is believed, through the enlightened instrumentality of Great Britain, at the negotiation of the treaties at the Congress of Vienna. It has been stipulated in these treaties, that the Rhine, the Neckar, the Mayne, the Moselle, the Maese, and the Scheldt, are to be free to all nations. The object of these stipulations undoubtedly has been, to lay the navigation of these rivers effectively open to all the people dwelling upon their banks, or within their neighbourhood, and to abolish those unnatural and unjust restrictions by which the inhabitants of the interior of Germany have been too often deprived of their outlet to the sea, by an abuse of that sovereignty rather than its right, which would impute an exclusive dominion over a river to any one State not holding all its shores. These stipulations may be considered as an indication of the present judgment of Europe upon the point, and would seem to supersede further reference to the case of other rivers, and from their recent, as well as high authority, further illustration of any kind. They imply a substantial recognition of the principle, that, whatever may sometimes have been the claim to an exclusive right by one nation over a river, under the circumstances in question, the

claim, if founded in an alleged right of sovereignty, could, at best only be supposed to spring from the social compact: whereas the right of navigating the river, is a right of nature, pre-existent in point of time, not necessary to have been surrendered up for any purpose of the common good, and unsusceptible of annihilation. There is no principle of national law, and universal justice, upon which the provisions of the Vienna treaties are founded, that does not apply to sustain the right of the People of the United States to navigate the St. Lawrence. The relations between the soil and the water, and those of man to both, form the eternal basis of this right. These relations are too intimate and powerful to be separated. A nation deprived of the use of the water flowing through its soil, would see itself stripped of many of the most beneficial uses of the soil itself; so that its right to use the water, and freely to pass over it, becomes an indispensable adjunct to its territorial rights. It is a means so interwoven with the end, that to disjoin them would be to destroy the end. Why should the water impart its fertility to the earth, if the products of the latter are to be left to perish upon the shores?

It may be proper to advert to the footing, in point of fact, upon which the navigation of this river stands, at present, between the two countries, so far as the regulations of Great Britain are concerned. The act of Parliament of the 3d of Geo. IV, chapter 119, August 5, 1822, has permitted the importation from the United States, by land, or water, into any port of entry in either of the Canadas, at which there is a cus-

tomhouse, of certain articles of the United States, enumerated in a schedule, subject to the duties which are specified in another schedule. Under the former schedule, many of the most important articles of the United States are excluded; and, under the latter, the duties are so high as to be equivalent to a prohibition of some that are nominally admitted. The foregoing act lays no impositions on the merchandise of the United States descending the St. Lawrence with a view to exportation on the ocean; but an act of Parliament of 1821 does, viz: upon the timber and lumber of the United States. Such, in general terms, is the footing upon which the intercourse is placed by the British acts, and it may be alike proper, in connexion with this reference to it, to mention the conditions of intercourse which it has superseded. To whatever observations the duties imposed on the products of the United States, imported for sale into the ports of Canada, may otherwise be liable, as well as the exclusion of some of them altogether, it will be understood that it is only the unobstructed passage of the river, considered as a common highway, that is claimed as a right. By the treaty stipulations of November, 1794, between the two countries, the United States were allowed to import into the two Canadas *all* articles of merchandise, the importation of which was not entirely prohibited, subject to no other duties than were payable by British subjects on the importation of the same articles from Europe into the Canadas. The same latitude of importation was allowed into the United States from the Canadas, subject to no other duties than were payable on the importation of the same articles into the Atlantic ports of the United States. Peltries were made free on both sides. All tolls and rates of ferriage were to be the same upon the inhabitants of both countries. No transit duties at portages, or carrying places, were to be levied on either side. These provisions were declared, in the treaty, to be designed to secure, to both parties, the local advantages common to both, and to promote a disposition favourable to friendship and good neighbourhood. The waters on each side were made free, with the exception, reciprocally, at that time, of vessels of the United States going to the seaports of the British territories, or navigating their rivers between their mouths and the highest port of entry from the sea; and of British vessels navigating the rivers of the United States beyond the highest ports of entry from the sea. These treaty regulations are found among the articles declared, when the instrument was made, to be permanent. Both countries continued to abide by them, until Great Britain passed the acts above recited, by which it appears that she has considered the intervening war of 1812, as abrogating the whole of the treaty of November, 1794. The United States have continued to allow, up to the present time, its provisions, regulating this intercourse, to operate in favour of the Canadas. By the act of Parliament, of the 3d of Geo. IV. chapter 44, taken in conjunction with the act of the same year,

chapter 119, above mentioned, the right of the vessels of the United States to the whole navigation of the St. Lawrence appears to be taken for granted : by the first, from the Ocean to Quebec ; and, by the second, from any part of the territories of the United States to Quebec. But a discretionary power is given to the Colonial Governments in Canada, to do away the effect of the latter permission, by excepting any of the Canadian posts from those to which the vessels of the United States are, by the act, made admissible ; whilst the duties which it imposes upon such of the exports of the United States as could alone render the trade profitable, are prohibitory. But it is the right of navigating this river upon a basis of certainty, without obstruction or hindrance of any kind, or the hazard of it in future, that the United States claim for their citizens.

The importance of this claim may be estimated when it is considered that the people of at least as many of the States as Illinois, Indiana, Ohio, Pennsylvania, New York, Vermont, Maine, and New Hampshire, and the Territory of Michigan, have an immediate interest in it, not to dwell upon the prospective, derivative interest which is attached to it in other portions of the Union. The parts of the United States connected, directly or remotely, with this river, and the inland seas through which it communicates with the Ocean, form, indeed, an extent of territory, and comprise, even at this day, an aggregate of population, which bespeak the interest at stake to be of the very

highest nature, and one which, after every deduction suggested by the artificial channels which may be substituted for the natural one of this great stream, make it, emphatically, an object of national concernment and attention. Having seen the grounds of necessity and reason upon which the right of so great and growing a population, to seek its only natural path-way to the ocean, rests, it may be expected that they should be supported by the established principles of international law. This shall be done by the citation of passages from the writings of the most eminent publicists, always bearing in mind that the right, under discussion, becomes strong in proportion to the extent which the country of the upper inhabitants, in its connexion with the stream, bears to the country of the lower inhabitants. Vattel, in book 2, ch. 9, sec. 127, lays down the following as a general position : " Nature, who designs her gifts for the common advantage of men, does not allow of their being kept from their use, when they can be furnished with them, without any prejudice to the proprietor, and by leaving still untouched all the utility and advantages he is capable of receiving from his rights." The same author, same book, ch. 10, sec. 132, says, " Property cannot deprive nations of the general right of travelling over the earth, in order to have a communication with each other, for carrying on trade and other just reasons. The master of a country may only refuse the passage on particular occasions, where he finds it is prejudicial or danger-

ous." In sec. 134, he adds, "A passage ought, also, to be granted for merchandise, and as this may, in common, be done without inconvenience, to refuse it, without just reason, is injuring a nation, and endeavouring to deprive it of the means of carrying on a trade with other States; if the passage occasion any inconvenience, any expense for the preservation of canals and highways, it may be recompensed by the rights of toll." Again, in book 1, ch. 22, sec. 266, we are told, that, if "neither the one nor the other of two nations, near a river, can prove that it settled first, it is to be supposed that they both came there at the same time, since neither can give any reason of preference; and, in this case, the dominion of each will be extended to the middle of the river." This is a principle too relevant to the doctrine under consideration to be passed over without remark. It relates, as will be seen, to *dominion*, and not to the right of passage simply. Now, if simultaneous settlement confers coequality of dominion, by even stronger reason will simultaneous *acquisition* confer coequality of passage. Without inquiring into the state of the navigation of the St. Lawrence as between Great Britain and France, prior to the peace of 1763, it is sufficient that, in the war of 1756-63, which preceded that Peace, the people of the United States, in their capacity of English subjects, contributed, jointly with the parent State (and largely, it may be added, with historical truth,) towards gaining the Canadas from France. The right of passage,

therefore, of this river, admitting that it did not exist before, was, in point of fact, opened to the early inhabitants of New York and Pennsylvania, at an epoch at least as soon as to British subjects living, afterwards, in the newly conquered possessions. A title thus derived, is not invoked as resting upon the same ground with the title derived from natural right; but it serves to strengthen it, and is of pertinent application, as against Great Britain, in this instance. Let it be looked at under either of the following alternatives which present themselves. If Great Britain possessed the navigation of this river prior to 1763, so did the People of the United States, as part, at that time, of her own empire. If she did not, but only first acquired it when the Canadas were acquired, the People of the United States, acting in common with her, acquired it in common, and at as early a date. It will not be said that the right which necessarily inured to the colonies, as part of the British empire, was lost by their subsequently taking the character of a distinct nation; since it is the purpose of this paper to show that the right of passage may, as a natural right, be claimed by one foreign nation against another, without any reference whatever to antecedent circumstances. But the latter, when they exist, make up part of the case, and are not to be left out of view. The peculiar and common origin of the title of both parties, as seen above, is culled to illustrate more fully the principle of common right, applicable to both now. The ante-

cedent circumstances show that the natural right always appertaining to the early inhabitants of the shores of this river, above the Canadian line, to navigate it, has once been fortified by joint conquest, and by subsequent joint usufruct. One other quotation is all that will be given from the same author. It relates to a strait, and not a river; but the reasoning from analogy is not the less striking and appropriate. "It must be remarked," he says, "with regard to straits, that when they serve for a communication between two seas, the navigation of which is common to all or many nations, he who possesses the strait cannot refuse others passage through it, provided that passage be innocent, and attended with no danger to the State. Such a refusal, without just reason, would deprive these nations of an advantage granted them by nature; and, indeed, the right of such a passage is a remainder of the primitive liberty enjoyed in common." If we consult Grotius, we shall find that he is equally, or more, explicit in sanctioning, in the largest extent, the principle contended for. He even goes so far as to say, after laying down generally the right of passage, that "the fears which any Power entertains of a multitude in arms, passing through its territories, do not form such an exception as can do away the rule; it not being proper or reasonable that the fears of one party should destroy the rights of another." Book 2, chap. 2, sec. 13. In the course of the same section he declares, that upon "this foundation of common right, a free passage through countries, rivers, or

over any part of the sea, which belong to some particular People, ought to be allowed to those who require it, for the necessary occasions of life, whether those occasions be in quest of settlements, after being driven from their own country, or *to trade with a remote nation.*" The reasons which Grotius himself gives, or which he adopts from writers more ancient, for this right of innocent passage, (and he is full of authorities and examples, as well from sacred as profane history,) are of peculiar force. He denominates it a "*a right interwoven with the very frame of human society.*" "Property," he says, "was originally introduced with a reservation of that use which might be of general benefit, and not prejudicial to the interest of the owner." He concludes the section in the following manner: "A free passage ought to be allowed, not only to persons, but to merchandise: for no power has a right to prevent one nation trading with another at a remote distance; a permission which, for the interest of society, should be maintained; nor can it be said that any one is injured by it: for, though he may thereby be deprived of an *exclusive* gain, yet the loss of what is not his due, *as a matter of right*, can never be considered as a damage, or the violation of a claim." After authorities of such immediate bearing on the point under consideration, further quotation will be forborne. The question of right is conceived to be made out, and if its denomination will be found to be sometimes that of an imperfect, in contradistinction to an absolute right, the denial of it is, neverthe-



less, agreed to be an injury, of which the party deprived may justly complain. The sentiments taken from these two writers, and they are not the only ones capable of being adduced, (though deemed sufficient,) have the full support of coincident passages in Puffendorf, book 3, chap. 3, sec. 4, 5, 6, and in Wolfius, sec. 310.

Finally: the United States feel justified in claiming the navigation of this river, on the ground of paramount interest and necessity to their citizens—on that of *natural right*, founded on this necessity, and felt and acknowledged in the practice of mankind, and under the sanction of the best expounders of the laws of nations. Their claim is to its full and free navigation from its source to the sea, without impediment or obstruction of any kind. It was thus that Great Britain claimed, and had, the navigation of the Mississippi, by the seventh article of the treaty of Paris, of 1763, when the mouth and lower shores of that river were held by another power. The claim, whilst necessary to the United States, is not injurious to Great Britain, nor can it violate any of her just rights. They confidently appeal to her justice for its enjoyment and security: to her enlightened sense of good neighbourhood; to her past claims upon others for the enjoyment of a similar right; and to her presumed desire for the advantageous intercourse of trade, and all good offices, now and henceforth, between the citizens of the United States and her own subjects bordering upon each other in that portion of her dominions.

N.

*British paper on the Navigation of the St. Lawrence—24th Protocol.*

The claim of the United States to the free navigation of the river St. Lawrence wears a character of peculiar importance when urged as an independent right.

The American Plenipotentiary must be aware that a demand, resting upon this principle, necessarily precludes those considerations of good neighbourhood and mutual accommodation, with which the Government of Great Britain would otherwise have been anxious to enter upon the adjustment of this part of the negotiation.

A right claimed without qualification on the one side, affords no room for friendly concession on the other: total admission, or total rejection, is the only alternative which it presents.

On looking to the objects embraced by the American claim, we find them to be of no ordinary magnitude. The United States pretend to no less than the perpetual enjoyment of a free, uninterrupted passage, independent of the territorial sovereign, through a large and very important part of the British possessions in North America. They demand, as their necessary inherent right, the liberty of navigating the St. Lawrence from its source to the sea, though, in the latter part of its course, which lies entirely within the British dominions, and comprises a space of nearly six hundred miles, that river traverses the finest settlements of Canada, communicates by the south with Lake Champlain, and washes the quays of Montreal and Quebec.

A pretension which thus goes to establish a perpetual thoroughfare for the inhabitants, vessels, and productions, of a foreign country, through the heart of a British colony, and under the walls of its principal fortress, has need to be substantiated on the clearest and most indisputable grounds. It requires, indeed, an enlarged view of what is owed in courtesy by one nation to another to justify the British Government in entering, at this late period, on the discussion of so novel and extensive a claim.

There will, however, be little difficulty in showing, that the claim asserted by the American Plenipotentiary rests, as to any foundation of *natural* right, on an incorrect application of the authorities which he has consulted. With respect to the claim derived from an *acquired* title which he has also alleged, that ground of claim will remain to be examined hereafter; but it may be observed, in the outset, that the natural and acquired title depend on principles essentially distinct; that the one cannot be used to make good any defect in the other; and although they may be possessed independently by the same claimant, that they can in no degree, contribute to each other's validity.

Proceeding to consider how far the claim of the United States may be established on either of these titles, it is first necessary to inquire what must be intended by the assertion that their claim is founded on *natural* right. "The right of navigating this river," says the American Plenipotentiary, "is a right of nature, pre-existent in point of time, not necessary to have been surrendered up for any purpose of common

good, and unsusceptible of annihilation." The right here described, can be of no other than that kind which is generally designate in the law of nations a *perfect* right. Now, a perfect right is that which exists independently of treaty; which necessarily arises from the law of nature; which is common, or may, under similar circumstance, be common to all independent nations; and can never be denied or infringed, by any State, without a breach of the law of nations. Such is the right to navigate the ocean without molestation in time of peace.

Upon these principles, now universally received, it is contended for the United States that a nation possessing both shores of a navigable river at its mouth, has no right to refuse the passage of it to another possessing part of its upper banks, and standing in need of it as a convenient channel of commercial communication with the sea. Applying the same principles to the case of the St. Lawrence, the American Government maintain that Great Britain would be no more justified in controlling American navigation on that river, than in assuming to itself a similar right of interference on the high seas.

To this extent must the assumption of a *perfect* right be carried, or such claim is no longer to be considered in that character; but, falling under the denomination of an *imperfect* right, it becomes subject to considerations essentially and entirely different.

The first question, therefore, to be resolved, is, whether a perfect right to the free navigation of the river St. Lawrence can be maintained according to the princi-

ples and practice of the law of nations?

Referring to the most eminent writers on that subject, we find that any liberty of passage to be enjoyed by one nation through the dominions of another, is treated by them as a qualified occasional exception to the paramount rights of property. "The right of passage," says Vattel, "is also a remainder of the primitive communion in which the entire earth was common to men, and the passage was every where free according to their necessities." Grotius, in like manner, describes mankind as having, in their primitive state, enjoyed the earth and its various productions in common, until after the introduction of property, together with its laws, by a division or gradual occupation of the general domain. Among the natural rights, which he describes as having in part survived this new order of things, are those of necessity and of innocent utility; under the latter of which he classes the right of passage. Following his principle, this natural right of passage between nation and nation, may be compared to the right of highway, as it exists, in particular communities, between the public at large and the individual proprietors of the soil, but with this important difference, that, in the former case, commanding and indispensable considerations of national safety, national welfare, and national honour and interest, must be taken especially into the account.

It is clear, that, on this principle, there is no distinction between the right of passage by a river flowing from the possessions of one nation, through those of another, to the ocean, and the same

right to be enjoyed by means of any highway, whether of land or of water, generally accessible to the inhabitants of the earth. "Rivers," says Grotius, "are subject to property, though neither where they rise, nor where they discharge themselves, be within our Territory." The right to exclusive sovereignty over rivers, is also distinctly asserted by Bynkershoek, in the ninth chapter of his treatise "on the dominion of the sea." Nor is this, by any means, the full latitude to which the principle, if applied at all, must, in fairness, be extended. "All nations," says Vattel, "have a general right to the innocent use of the things which are under any one's domain." "Property," says the same author, "cannot deprive nations of the general right of travelling over the earth, in order to have communication with each other, for carrying on trade, and other just reasons." The nature of these other *just reasons* is explained by Grotius, in the following sentence: "A passage ought to be granted to persons, whenever just occasion shall require, over any lands or rivers, or such parts of the sea, as belong to any nation;" as for "instance, if, being expelled from their own country, they want to settle in some uninhabited land, or if they are going to traffic with some distant people, or to recover, by a just war, what is their own right and due."

For other purposes, then, besides those of trade, for objects of war, as well as for objects of peace, for all nations, no less than for any nation in particular, does the right of passage hold good under those authorities to which the American

Plenipotentiary has appealed. It has already been shewn that, with reference to this right, no distinction is drawn by them between land and water, and still less between one sort of river and another. It further appears, from Vattel, that the right in question, particularly, for the conveyance of merchandise, is attached to artificial, as well as to natural highways. "If this passage," he observes, "occasion any inconvenience, any expense for the preservation of *canals* and *highways*, it may be recompensed "by rights of toll."

Is it then to be imagined that the American Government can mean to insist on a demand, involving such consequences, without being prepared to apply, by reciprocity, the principle on which it rests in favour of Great Britain? Though the sources of the Mississippi are now ascertained to lie within the territory of the United States, the day cannot be distant when the inhabitants of Upper Canada will find convenience in exporting their superfluous produce by means of the channel of that river to the ocean. A few miles of transport over land are of little consequence, when leading to a navigable river of such extent. Even at the present time, a glance upon the map is sufficient to show that the course of the Hudson, connected as it now is with the waters of the St. Lawrence, would afford a very commodious outlet for the produce of the Canadian provinces. The comparative shortness of this passage, especially with reference to the West Indies, would amply compensate for any fair expense of tolls.

It would also be, in some in-

stances, convenient and profitable for British vessels to ascend the principal rivers of the United States, as far as their draft of water would admit, instead of depositing their merchandise, as now, at the appointed ports of entry from the sea. Nor is it probable that other nations would be more backward than the British in pressing their claim to a full participation in this advantage. The general principle which they would invoke, in pursuance of the example given by America, and a partial application of such principles no country can have a right to expect from another, is clearly of a nature to authorize the most extraordinary and unheard of demands. As for the right of passage from sea to sea, across any intervening isthmus, such, for instance, as that of Corinth or of Suez, and, more especially from the Atlantic to the Pacific, by the isthmus of Panama, that right of passage follows as immediately from this principle, as any such right claimed from one tract of land to another, or to the ocean, by water communication.

The exercise of a right, which thus goes the length of opening a way for foreigners, into the bosom of every country, must necessarily be attended with inconvenience, and sometimes with alarm and peril, to the State whose territories are to be traversed. This consequence has not been overlooked by writers on the law of nations. They have felt the necessity of controlling the operation of so dangerous a principle, by restricting the right of transit to purposes of *innocent* utility, and by attributing to the local sovereign the exclusive power of judging under

what circumstances the passage through his dominions is, or is not, to be regarded as *innocent*. In other words, the right which they have described is, at best, only an *imperfect* right.

It is under the head of *innocent utility*, that Grotius has classed the right of passage, as before laid down in his own expressions.

"Innocent utility," he adds, is when I only seek my own advantage *without damaging* any body else." In treating of the same right, Vattel remarks, that, "since the introduction of domain and property, we can no otherwise make use to it, than by respecting the proper right of others." "The effect," he adds, "of property, is to make the advantage of the proprietor prevail over that of all others."

The same author defines the *right of innocent use*, or innocent utility, to be "the right we have to that use which may be drawn from things belonging to another, without causing him either loss or inconvenience." He goes on to say, that "this right of *innocent use* is not a perfect right like that of *necessity*: for it belongs to the master to judge if the use we would make of a thing that belongs to him, will be attended with no damage or inconvenience."

With respect to the assertion of Grotius, as quoted by the American Plenipotentiary, "that the mere apprehension of receiving injury from the exercise of this right, is not a sufficient reason for denying it," the author, it must be observed, is addressing himself to the conscience of the Sovereign through whose territories a passage may be demanded; impres-

sing upon his mind that he cannot fully discharge his moral obligations in giving such refusal, unless he be well convinced that his fears originate in just causes. But it would be absurd, and contrary to the general tenor of his argument, to suppose, that a well founded apprehension was not to have its due effect, or that the advantage, or even necessity, of a foreign nation could be justly recognized by him as paramount, in the one case, to the leading interests in the other, to the safety, of his own.

It is further to be observed, that Grotius, in the argument referred to, had clearly in view an *occasional* liberty of passage, not of that *perpetual*, uninterrupted kind, which the regular activity of modern commerce requires. But the doctrine of Grotius, applied to merchandise, and taken in the sense ascribed to it by the American Plenipotentiary, is distinctly contradicted by other eminent writers on the law of nations. Puffendorf, for instance, in his great work on that subject, expresses himself as follows: "We may have good reasons for stopping foreign merchandise, as well by land as on a river, or on an arm of the sea, within our dependence. For besides that a too great affluence of foreigners is sometimes prejudicial or suspicious to a State, why should not a Sovereign secure to his own subjects the profit made by foreigners, under favour of the passage which he allows them?" "I admit that, in allowing foreigners to carry their merchandise elsewhere, even without paying for the passage, we do not sustain any dam-

age, and that they do us no wrong in pretending to an advantage of which we might have possessed ourselves before them. But, at the same time, as they have no right to exclude us from it, why should we not try to draw it to ourselves? Why should we not prefer our interest to theirs?"

The same author observes, in the next section of his work, that "a State may fairly lay a duty on foreign goods conveyed through its territory, *by way of compensation for what its subjects lose by admitting a new competitor into the market.*"

To appreciate the full force of these opinions, it must be borne in mind that Puffendorf appears to speak of a foreign nation so situated as to depend exclusively on the passage in question for the sale of its superfluous produce, and the importation of supplies from abroad. This part of the subject may be closed with the following decisive words of Barbeyrac, in his notes on Grotius: "It necessarily follows from the right of property, that the proprietor may refuse another the use of his goods. Humanity, indeed, requires that he should grant that use to those who stand in need of it, when it can be done without any considerable inconvenience to himself; and, if he even then refuses it, though he transgresses his duty, he doth them no wrong, properly so called, except they are in extreme necessity, which is superior to all ordinary rules."

But the American Plenipotentiary maintains that the right of passage, as understood by him in opposition to his own authorities, that is, independent of the sov-

ereign's consent, and applied to the single predicament of the St. Lawrence, has been substantially recognized by the Powers of Europe, in the treaties of general pacification, concluded at Paris in 1814, and in the following year at Vienna.

It is true that, in the solemn engagements then contracted by them, the Sovereigns of the leading States of Europe manifested a disposition to facilitate commercial intercourse between their respective countries, by opening the navigation of such of the principal rivers as separated or traversed the territories of several Powers. This policy was applied more particularly to the Rhine, the Necker, the Maine, the Moselle, the Mæse, and the Scheldt. But neither in the general, nor in the special stipulations, relating to the free navigation of rivers, is there any thing to countenance the principle of a natural, independent right, as asserted by the American Plenipotentiary. We find, on the contrary, that, in the treaty concluded at Paris, between France and the Allied Powers, the Rhine was the only river at once thrown open to general navigation. With respect to the other rivers, it was merely stipulated that the means of extending that arrangement to them, should be determined by the Congress about to assemble at Vienna. In the instance of the Rhine, it was natural for France, in giving up possessions which she had for some time enjoyed on the banks of that river, to stipulate a reserve of the navigation. The stipulations relating to river navigation, in the general treaty of Vienna, commence in the following man-

ner: "The Powers whose States are separated or crossed by the same navigable river, *engage* to regulate by *common consent*, all that regards its navigation." They close with an agreement that the regulations, once adopted, shall not be changed, *except with the consent of all the Powers bordering on the same river*.

It is evident, therefore, that the allied Governments, in concurring to favour the circulation of trade through the great water communications of continental Europe, did not lose sight of what was due to the sovereignty of particular States; and that, when they referred the common enjoyment of certain navigable rivers to voluntary compact between the parties more immediately concerned, they virtually acknowledged the right of any one of those parties, till bound by its own engagements to withhold the passage, through its dominions, from foreign merchant vessels. As freedom of navigation in favour of all nations, and not merely of those which border on the rivers thus opened by treaty, was the immediate object of the abovementioned stipulations, it must be presumed that the Powers assembled in Congress, if they had felt themselves borne out by the practice or general opinion of Europe, would not have hesitated to proclaim the measure which they adopted as one of natural, independent right.

Their silence alone on this point might have been taken as strongly indicative of their belief that the prevailing usage of Europe would authorize no such declaration. But the principle of mutual consent is surely irreconcil-

able with the contrary supposition, and must, at least, be understood to give a special character to the engagements contracted under it, confining them to the rivers enumerated in the treaty; and, however laudable, as an example to other States, whose circumstances may allow of their imitating it without danger or detriment, expressive of no obligation beyond the occasion for which the treaty was framed.

It would take up too much time to demonstrate, by a detailed investigation of every case to which the American argument applies, the negative proposition, that no nation exercises the liberty of navigating a river, through the territories of another except by permission or express concession under treaty. It is rather for the American Government to present a single instance in which the liberty claimed for the United States is exercised explicitly as a natural independent right.

The case of the Scheldt, though referred to by the American Plenipotentiary, is certainly not one of this kind. The leading circumstances relating to that river were, first, that its mouths, including the canals of Sas and Swin, lay within the Dutch Territory, while parts of its upper channel were situated within the Flemish provinces. Secondly, That the treaty of Westphalia had confirmed the right of the Dutch to close the mouths of the river. Thirdly, That the exercise of this right was disputed, after a lapse of more than a hundred years, by the Emperor of Germany: and, fourthly, that the dispute between that monarch and the Dutch Republic terminated, in

1785, by leaving the Dutch in possession of the right which had been disputed. It is true that, at the latter period, the Dutch founded their claim, in part, on the expense and labour which they had undergone in improving the river; but, it is true, at the same time, that they also grounded it on the general law of nations. Above all, they rested it on the treaty of Westphalia. But if the right of the Dutch Republic had been countenanced by the law and practice of nations, why, it may be asked, should it have been thought necessary to confirm that right by the treaty of Westphalia? The reply is obvious, that confirmation was the resort of the weak against the strong: of the former dependents of Spain against the encroachments of a haughty power, still sovereign of Antwerp, and the neighbouring provinces, and not having yet renounced its claim of sovereignty over Holland itself. It was natural for the Dutch, under such circumstances, to fortify their right by the general sanction of Europe; but it was not natural for the principal parties in the pacification of Munster, to lend their sanction to a measure in direct contradiction to acknowledged principles; or, if their scruples, as to the admission of such a measure, had been removed by special motives, it is strange that they should not have taken the obvious precaution of recording those motives. During the discussions about the Scheldt, in 1785, the Empress of Russia was the only Sovereign who officially declared an opinion in favour of the House of Austria. But the United States

can derive no great advantage from a declaration couched in such terms as these: "Nature herself hath granted to the Austrian Low Countries the use and advantage of the river in dispute; Austria alone, by virtue of the law of nature and nations, is entitled to an *exclusive* right to the river in question. So that the equity and disinterestedness of Joseph II. can only impart this right to other people—it belonging *exclusively* to his States."

The opinions proclaimed on this subject by the Russian Government are the more remarkable, as there is no country which has a greater interest than Russia in the disputed question. It is well known, that the only approach to the Russian ports on the Black Sea, from the Mediterranean and Atlantic, is by the passages of the Dardanelles and Bosphorus. These canals are, in fact, salt-water straits, communicating from sea to sea: passing, it is true, between the Turkish territories in Europe and Asia, but with no great length of course, and leading to a vast expanse of inland water, the shores of which are occupied by no less than three independent Powers.

There is manifestly a wide difference between such a case and that of the St. Lawrence, nor can the marked difference in principle between rivers and straits be overlooked; and yet, as matter of fact, the navigation of the Black Sea, and the adjacent canals, is enjoyed by Russia—by that Power which has so often dictated its own conditions to the Porte—in virtue of a treaty, founded, like other treaties, on the mutual con-



venience and mutual advantage of the parties. Even the navigation of the Danube, downwards to the sea, was first acknowledged by the Turkish Government, as a specific concession made at a juncture when the Porte, involved in a quarrel with the most formidable of its neighbours, was compelled to propitiate the good will of other Christian Powers.

The case of the Mississippi is far from presenting an exception to this view of the subject. The treaty of 1763, which opened the navigation of that river to British subjects, was concluded after a war, in which Great Britain had been eminently successful. The same motives that prevailed with France to cede Canada, must have restrained her from hazarding a continuance of hostilities for such an object as the exclusive navigation of the Mississippi. The agreement respecting that river, makes part of the general provisions as to the western boundary of the British possessions in America, by which the whole left side of the Mississippi was ceded to Great Britain, with the exception of the town and island of New Orleans. This reservation was admitted on the express condition, that the navigation of the whole channel should be open to British subjects. The very fact of its having been thought necessary to insert this stipulation in the treaty, in consequence of France having retained possession of both banks of the river, at a single spot, leads, irresistibly, to an inference the very reverse of what is maintained by the American Plenipotentiary.

At a later period, the naviga-

tion of the Mississippi became a subject of arrangement between Spain and the United States. By the fourth article of their treaty of Commerce and Consular, concluded in 1763, a similar agreement to that which had before subsisted between France and Great Britain, was effected between those Powers, with this remarkable difference, that the liberty of navigating the river was expressly confined to the "parties themselves, unless the King of Spain," to use the words of the treaty, "should extend the *privilege* to the subjects of other Powers by *special convention*."

It must not be overlooked, that, when the clause which is here quoted, and the exclusive stipulation immediately preceding it, were drawn up, the sources of the Mississippi were still supposed to be within the British territory; and, at the same time, there was in force a treaty between Great Britain and the United States, declaring that "the navigation of the river Mississippi, from its source to the ocean, should, *forever*, remain free and open to the subjects of Great Britain."

Some additional light may perhaps, be thrown on the object of the present discussion, by the quotation of a note on the fourth article of the Spanish treaty, which is printed in the collection of the United States' laws, *arranged and published under the authority of an act of Congress*. It is as follows:

"Whatsoever right His Catholic Majesty had to interdict the free navigation of the Mississippi, to any nation, at the date of the treaty of San Lorenzo el Real, (the 27th day of October, 1795,)

that right was wholly transferred to the United States, in virtue of the cession of Louisiana from France, by the treaty of April 30th, 1803. And, as the definitive treaty of peace was concluded previously to the transfer to the United States of the right of Spain to the dominion of the river Mississippi, and, of course, prior to the United States' possessing the Spanish right, it would seem that the stipulation contained in the 8th article of the definitive treaty with Great Britain, could not have included any greater latitude of navigation on the Mississippi, than that which the United States were authorized to grant on the 3d of September, 1783."

"The additional right of sovereignty which was acquired over the river by the cession of Louisiana, was *paid for* by the American Government; and therefore any extension of it to a Foreign Power could scarcely be expected *without an equivalent*."

The natural right asserted by the American Plenipotentiary being thus examined in respect both to the principles which it involves, and to the general practice of nations, the *acquired* title, as distinct from the *natural*, stands next for consideration.

This title is described in the American argument, as originating in circumstances which either preceded or attended the acquisition of the Canadas by Great Britain. It is said, "that, if Great Britain possessed the navigation of the St. Lawrence before the conclusion of peace in 1763, so did the People of the United States, as forming, at that time, a part of

the British empire; but if Great Britain only first acquired it together with the Canadas, then did the People of the United States acquire it in common with her at the same period." In both the supposed cases, it is taken for granted, that whatever liberty to navigate the St. Lawrence, in the whole length of its course, the inhabitants of the United States enjoyed when those States were part of the British Empire, continued to belong to them after their separation from the mother country. Now, if this were so, it would also be true, and in a far stronger degree, that the subjects of Great Britain have an equal right to enjoy, in common with American citizens, the use of the navigable rivers and other public possessions of the United States, which existed when both countries were united under the same Government. For the acquired title, be it remembered, does not affect the St. Lawrence, as a river flowing from the territories of one Power, through of those another, to the Sea, but is manifestly grounded on the supposition that an object which had been possessed in common by the People of both countries, up to the time of their separation, continues to belong, in point of use, to both, after they have ceased to be parts of the same community. If it be true, that the inhabitants of the United States contributed, as British subjects, to effect the conquest of Canada, it cannot at the same time, be denied, that the United States, before their separation from Great Britain, were frequently indebted to the councils and

exertions of the parent country for protection against their unquiet and encroaching neighbours.

Specifically did they owe to Great Britain their first enjoyment of the waters of the Mississippi, conquered in part from France by the very same efforts, which transformed Canada from a French settlement into a British Colony. The pretension of the American Government as grounded on the simultaneous acquisition of the St. Lawrence, as well by the inhabitants of the adjacent, and, at that time, British Provinces, as by those of the countries originally composing the British monarchy, must, therefore, if admitted, even for the sake of argument, be applied reciprocally in favour of Great Britain.

The fact, however, is, that no such pretension can be allowed to have survived the treaty by which the independence of the United States was first acknowledged by Great Britain.

By that treaty a perpetual line of demarcation was drawn between the two Powers, no longer connected by any other ties than those of amity and conventional agreement.

No portion of the sovereignty of the British empire, exclusive to the actual territory of the United States, as acknowledged by that treaty, could possibly devolve upon the People of the United States, separated from Great Britain.

By the same instrument, the territorial boundary of the States, as recognized by their former sovereign, were carefully defined, for the express purpose of avoiding

disputes in future ; and the articles stipulating for a concurrent enjoyment of the North American fisheries, and of the navigation of the river Mississippi, prove that equal care was taken to determine, in the general act of pacification and acknowledgment, those objects, of which the usufruct in common was either retained or conceded by Great Britain.

Is it conceivable, under these circumstances, that the treaty of 1783, should have made no mention of the concurrent navigation of the St. Lawrence, if the claim, now raised by the United States, had rested on any tenable grounds ?

But the commercial treaty of 1794, would afford additional proof, if it were wanted, that the channel of the St. Lawrence, from the sea to the 45th parallel of latitude, was never for a moment considered as forming any exception to the territorial possessions of Great Britain,

The third article of the commercial treaty shows, most clearly, that the power of excluding foreign vessels from those parts of the river which flow entirely within the British dominions, was deemed to belong of right to the British Government. The leading purpose of that article is, to establish a free commercial intercourse between the two parties throughout their respective territories in North America.

The same article contains a limitation of this privilege with respect to a considerable portion of the St. Lawrence, to which it was declared that American vessels were not to have access ; and the corresponding restriction against

Great Britain, was an exclusion of British vessels from such parts of the rivers of the United States as lie above the highest ports of entry for foreign shipping from the sea.

It necessarily results, from the nature of the two clauses thus viewed with reference to each other, that the authority of Great Britain over the part of the St. Lawrence interdicted to American vessels, was no less completely exclusive, than that of the United States over such parts of their interior waters as were, in like manner, interdicted to the shipping of Great Britain.

The former limitation is, besides, of itself inconsistent with the notion of a right to a free, uninterrupted passage for American vessels, by the St. Lawrence to the ocean.

Nor is it less conclusive as to the merits of the case, when coupled with the declaration, contained in the very same article, that the navigation of the Mississippi was to be enjoyed in common by both parties, notwithstanding that a subsequent article of the same treaty expresses the uncertainty which already prevailed with respect to the sources of that river being actually situated within the British frontiers.

With these facts in view, it is difficult to conceive how a tacit enjoyment of the navigation now claimed, can be stated by the American Plenipotentiary to account for the silence maintained on this subject by his Government, from the establishment of its independence to the present negotiation.

In the course of forty years,

during which no mention whatever has been made of this claim, there has been no want of opportunities fit for its assertion and discussion. To say nothing of periods anterior to the rupture of 1812, it is strange that an interest of such vast importance should have been wholly neglected, as well on the renewal of peace, in 1815, as during the negotiation of the commercial treaty which took place in the close of that year. This long continued silence is the more remarkable, as the mere apprehension of an eventual change in the regulations, under which a part of the St. Lawrence is actually navigated by foreign vessels, has been alleged by the American Government, as their reason for now raising the discussion.

The regions contiguous to the upper waters of the St. Lawrence are doubtless more extensively settled than they were before the late war, and the inhabitants of those regions might at times find it advantageous to export their lumber and flour by the channel of that river. But mere convenience, and the profits of trade, cannot be deemed to constitute that case of extreme necessity under the law of nations, to which the rights of property may perhaps be occasionally required to give way. It has already been shown, that such interests can, at most, amount to an imperfect right of innocent utility, the exercise of which is entirely dependent on the will and discretion of the local sovereign. Of this description are the rights and accompanying duties of nations to trade with each other, and to permit the access of foreigners to their respective waters in time of

peace; but will any one, at the same time, call in question the co-existing right of every State, not only to regulate and to limit its commercial intercourse with others, but even, as occasion may require, to suspend or to withhold it altogether?

If ever there was a case, which particularly imposed on a sovereign the indispensable duty of maintaining this right unimpaired, even with every disposition to consult the convenience and fair advantage of friendly nations; it is the present unqualified demand of the United States.

It cannot be necessary to enumerate the various circumstances which make this claim peculiarly objectionable; but there is no concealing, that, besides the ordinary considerations of territorial protection, those of commercial interest and colonial policy are alike involved in the demand of a free, gratuitous, unlimited right of passage for American citizens, with their vessels and merchandise, from one end of Canada to the other.

Interests of such high national importance are not to be put in competition with the claims of justice; but when justice is clearly on their side, they have a right to be heard, and cannot be denied their full weight. That the right is, in this instance, undoubtedly on the side of Great Britain, a moment's reflection on the preceding argument will suffice to establish.

It has been shown that the independent right asserted by the United States, is inconsistent with the dominion, paramount sovereignty, and exclusive possession of Great Britain.

It has been proved, by reference to the most esteemed authorities on the law of nations, with respect as well to the general principle as to the opinions distinctly given on this point, that the right of sovereignty and exclusive possession extends over rivers, in common with the territory through which they flow.

The same principles and the same opinions have been cited to prove that those parts of the river St. Lawrence which flow exclusively through the British dominions, form no exception to the general doctrine so applied to rivers.

The existence of any necessity calculated to give the United States, in this case, a special right, in contradiction to the general rule, has been distinctly denied, and the denial conclusively supported by a reference to known facts.

With no disposition to contest such imperfect claims and moral obligations, as are consistent with the paramount rights of sovereignty and exclusive possession, it has been proved, from the authorities already quoted, that of those imperfect claims and moral obligations, the territorial sovereign is the judge.

The title of the United States, as derived from previous enjoyment at the time when they formed part of the British empire, has been shown to have ceased with the conclusion of that treaty by which Great Britain recognized them in the new character of an independent nation.

It has also been shown, that, while the American Government acknowledge that their claim is now brought forward for the first

time, not only have they had, since their independence, no enjoyment, under treaty, of the navigation now claimed, but that the provisions of the commercial treaty, concluded in 1794, and described as having been till lately in force, are in direct contradiction with their present demand.

It has finally been made to appear, that the treaties concluded by European Powers, as to the navigation of rivers, far from invalidating the rights of sovereignty in that particular, tend on the contrary, to establish those rights; and that the general principle of protection, essential to sovereignty, dominion and property, applies with peculiar force to the present case of the river St. Lawrence.

*Extract of a letter from Mr. Clay to Mr. Gallatin.*

Department of State, }  
Washington, 19th June, 1826. }

“3. The navigation of the St. Lawrence from the Territories of the United States to the sea.

“The Government of the United States have seen, with very great surprise and regret, the manner in which the assertion of this right of navigation, through Mr. Rush, during the former negotiation, was met and resisted by the British Plenipotentiaries. The President has respectfully and deliberately examined and considered the British paper which was delivered in by them, and which is annexed to the protocol of the 24th conference, and he has been altogether unable to discern, in its reason or its authorities, any thing to impeach the right of the United States, or to justify the confidence with which the exclusive preten-

sions of Great Britain are brought forward and maintained. What is the right claimed by the United States? The North American lakes are among the largest inland seas known on the globe. They extend from about the 41st to the 49th degree of north latitude, stretch over sixteen degrees of longitude, and thus present a surface, altogether, of upwards of eighty-three thousand square miles. Eight States of this Union, (three of them among the largest in it) and one Territory, border on them. A population already exceeding two millions, and augmenting beyond all example, is directly and deeply interested in their navigation. They are entirely enclosed within the Territories of the United States and Great Britain, and the right to their navigation, common to both, is guarantied by the faith of treaties, and rests upon the still higher authority of the law of nature. These great lakes are united by but one natural outlet to the ocean, the navigation of which is common to all mankind. That outlet, along a considerable part of its course, forms a common boundary between the territories of the United States and Great Britain, and to that extent the right of navigating it is enjoyed by both. The United States contend that they are invested with a right to pass from those lakes, the incontestable privilege of navigating which they exercise, through that natural outlet, to the ocean—the right of navigating which, by all nations, none presumes to question. The right asserted, in other words, is, that their vessels shall be allowed, without molestation, to pursue their trackless way on the bosom of those vast waters, gather-

ed together, in no inconsiderable degree, in their own territory, through that great channel of the St. Lawrence, which nature itself has beneficently supplied, to the ocean, in which they are finally deposited. They ask that the interests of the greater population, and the more extensive and fertile country above, shall not be sacrificed, in an arbitrary exertion of power, to the jealousy and rivalry of a smaller population, inhabiting a more limited and less productive country below. The United States do not claim a right of entry into British ports, situated on the St. Lawrence, against British will, and to force their productions into the consumption of British subjects. They claim only the right of passing those ports, and transporting their productions to foreign markets, or to their own, open and willing to receive them; and, as incident and necessary to the enjoyment of that right, they claim the privileges of stoppage and transshipment, at such places within the British jurisdiction, and under such reasonable and equitable regulations, as may be prescribed or agreed upon.

“Such is the right, the assertion of which shocked the sensibility of the British Plenipotentiaries. The impartial world will judge whether surprise most naturally belonged to the denial or to the assertion of the right.

“If the St. Lawrence is regarded a strait, as it ought to be, connecting navigable seas, there would be less controversy. The principle on which the right to navigate straits depends, is that they are accessorial to those seas which they unite, and the right of navigating which is not exclusive, but

common to all nations; the right to navigate the seas drawing after it that of passing the straits. Let that principle be applied to the present case. The United States and Great Britain have, between them, the exclusive right of navigating the lakes. The St. Lawrence connects them with the ocean. The right to navigate both (the lakes and the ocean) includes that of passing from the one to the other through the natural link. Is it reasonable or just that one of the two co-proprietors of the lakes should altogether exclude his associate from the use of a common natural bounty, necessary to the enjoyment of the full advantages of them? But, if that vast mass of water, collected from a thousand tributary sources, in the immense reservoirs of the North American lakes, and cast by them into the Atlantic ocean, through the channel of the St. Lawrence, is to be considered, in its transit through that great channel, as a river, the name which accident has conferred, and not a strait, the right of the United States to navigate it is believed to be, nevertheless, clearly and satisfactorily maintainable. In treating this subject, there is, throughout the whole of the British paper, a want of just discrimination between the right of passage, claimed by one nation, through the territories of another, on land, and that on navigable water. The distinction, it is true, is not always clearly adverted to in the writers on the public law, but it has a manifest existence. In the former case, the passage can hardly ever take place, especially if it be of numerous bodies, without some detriment or inconvenience to the

State or its citizens, whose territory is traversed. If the country be in a forest state, there is a destruction of timber, if not of soil. If in a cultivated, the fields are trodden down and dilapidated, and the use of the roads more or less impairs them. In both, there is danger of collisions between the native and foreign citizens. But a passage on land, through the territories of another, whenever it is innocent, cannot be lawfully refused. It is to be granted by a neutral to a belligerent army, if no serious injury is likely to accrue to him. As the right of judging whether the passage be or be not innocent, must abide somewhere, expediency suggests that it should be exercised by the sovereign of the soil. But his judgment and decision must be regulated by reason and justice; and, of course, the passage cannot be rightfully refused upon grounds merely arbitrary. How stands the case of a passage on navigable water? In that, no injury is done to timber or soil, to cultivation or to roads: no dangerous collisions between the inhabitants and the foreigners arise; not a trace is left by the passenger behind. In the passage of the St. Lawrence, for example, the vessel is wafted, on the same water which first floats it from the territories of the United States, to the ocean. It is true, as is alleged in the British paper, that this water washes the quays of Montreal and Quebec, passes under the walls of a principal fortress, and, also, through the *finest* settlements of Canada, and extends along a space of near six hundred miles, within the dominions of His Britannic Majesty. But when the American vessel shall have arrived at the

ocean, to which she is supposed to be bound, she will have inflicted no injury upon those quays; the guns of the fortress will have been silent; those fine settlements of *Canada*, and that space of six hundred miles, (not exactly, as is asserted, extending through the heart of a British colony,) will have remained unmolested. She will have left no traces of injury behind her: her voyage itself will not have made on the inhabitants the impression of a passing dream; and, like the water on which she was borne, she will have sought her trackless and innocent course to the ocean, to reach which Great Britain would be as much justified in claiming a power to prevent the one as the other.

“Nor ought the cases of rivers which rise and debouche altogether within the Territorial limits of the same nation, to be confounded with those which, having their sources and navigable portions of their bodies in States above, finally discharge themselves within the limits of other States below. In the former instance, there is no basis on which a right in common can rest. The navigation of those rivers, ordinarily, can only be desired for purposes of commerce or intercourse with the nation to whose Territories, in their whole extent, they are confined. And as every nation, strictly, has a right to interdict all foreign commerce, and to exclude all foreigners from its Territories, as is done, in a considerable degree, by China, it follows that every one has a right, generally, to prohibit an entry into such rivers, or the use of its artificial roads. This right of prohibition exists where the direct object of the visit of foreigners is



social or commercial. The end being forbidden, the means necessary to its accomplishment may be rightfully withheld. But, if an innocent passage is demanded for purposes unconnected with the commerce or society of the State through which it is required, it cannot justly be denied. In the enjoyment of this right of passage, the use of the Territories, in which it is exerted, is merely collateral. If it be for purposes of lawful war, the end carries the means; and the neutral cannot deny the passage without weighty considerations.

“But the right of the inhabitants of the upper bank of a river to the use of its navigation in its passage to the sea, through the territories of another Sovereign, stands upon other and stronger ground. If they were to bring forward the pretension to trade, or open other intercourse with the nation inhabiting the banks below, against its consent, they would find no support or countenance in reason, or in the law of nature. But it is inconceivable upon what just grounds a nation below can oppose the right of that above to pass through a great natural highway into the sea, that it may trade or hold intercourse with other nations by their consent. From the very nature of such a river, it must, in respect to its navigable uses, be considered as common to all the nations who inhabit its banks, as a free gift, flowing from the bounty of Heaven, intended for all whose lots are cast upon its borders; and, in this latter respect, it is clearly distinguishable from canals and works of art, from the use of which, being erected at the expense of one, all others may be

excluded. The right to prohibit the use of natural channels, deduced in the British paper, from that of the exclusive nature of those of an artificial kind, would establish the power, if it were practicable, to forbid the enjoyment of the showers of rain which are equally dispensed by the Author of all Good, because the gardener may lawfully deny the employment of his watering vessels in the irrigation of any grounds but his own. The land may be divided through which a river passes, or which composes its bed, by artificial lines of demarcation; but the water itself is incapable of such a division. It is confluent and continuous. And that portion of the floating mass which is now in the territorial dominion of the lower nation, was yesterday under that of the nation above; and, condemning alike the authority of all, will, to-morrow, be in that ocean to which the presumptuous sway of no one has yet been lawfully extended. The incontestible right which one nation has to trade with others, by their consent, carries along with it that of using those navigable means necessary to its enjoyment, which the bounty of nature has provided for all, in respect to seas, and, in regard to rivers, for the nations who inhabit them.

“The British paper inquires if the American Government can mean to insist on a demand, involving such consequences as it describes, without being prepared to apply, by reciprocity, the principle on which the demand rests, in favour of Great Britain? The American Government has not contended, and does not mean to contend, for any principle, the benefit of which, in analogous cir-

cumstances, it would deny to Great Britain. Accordingly, with respect to that branch of the Columbia which rises north of the parallel 49, (should that parallel be mutually agreed to as the boundary between the territories of the two Powers,) a case analogous to that of the St. Lawrence will be presented. And you have been heretofore instructed, in the event of that branch being navigable within the British territory, to stipulate for the right of navigating the Columbia to the ocean, in behalf of British subjects. In regard to the Mississippi, (the example put by the British Plenipotentiaries,) if further exploration of the country shall develop a connexion between that river and Upper Canada, similar to that which exists between the United States and the St. Lawrence, the American Government, always faithful to principles, would be ready to apply to the Mississippi the doctrines which it now holds in regard to its great northern rival. It is not necessary to discuss all the extreme cases which may be fancifully suggested, such as a foreign claim to pass the Isthmus of Darien, to drive a trade between Europe and distant India, through two oceans; or that of passing through England to trade with France or other portions of the European continent. Examples of that kind belong to the species of sophistry which would subvert all principles, by pushing their assumed consequences into the regions of extravagant supposition.

"The British paper denies that the engagements of Paris, in 1814, and at Vienna in the following year, between the Powers of Europe, in respect to the navigation

of rivers, give any countenance to the natural right asserted by this Government. It is difficult to conceive what other principle than that of a strong sense of the injustice of withholding from nations, whose territories are washed by rivers, the privilege of their navigation, dictated those engagements. The clause, cited in the paper under consideration, is not in the nature of an original grant, but appears to be founded on a pre-existing (and which could be no other than a natural) right. 'The Powers whose States are separated or crossed by the same navigable river, *engage* to regulate, by common consent, all that regards its navigation.' The regulation is not of the right, but of the *use* of the right, of navigation. And if the consent of the local sovereign is necessary to give validity to the regulation, so is that of the sovereign, above or below, whose territories are crossed by the same river; and it is not stipulated that their use of the right of navigation was to remain in abeyance until the manner of its enjoyment was regulated by the consent of all the interested Powers. On the contrary, it cannot be doubted, that it was the understanding of the great Powers at Vienna, that all the States, concerned in the navigation of the Rhine and the other enumerated rivers, were to be forthwith let into the enjoyment of the navigation of them, whether it was previously regulated, or not, by common consent. Without such an understanding, it is manifest that any one of the States, by withholding its assent to proposed regulations, upon real or ostensible grounds of objection, might indefinitely post-

pone, if not altogether defeat, the exercise of the recognized right. The fact of subjecting the use of a right to treaty regulations, as *was proposed at Vienna* to be done with the navigation of the European rivers, and as was also done in the case of the Danube, and other instances cited, does not prove that the origin of the right is conventional, and not natural. It often happens to be highly convenient, if not sometimes indispensable, to guard against collisions and controversies, by prescribing certain rules for the use of a natural right. The law of nature, though sufficiently intelligible in its great outlines and general purposes, does not always reach every minute detail, which is called for by the complicated varieties and wants of modern navigation and commerce. And hence the right of navigating the ocean itself, in many instances, principally incident to a state of war, is subjected by innumerable treaties, to various regulations. These regulations—the transactions at Vienna, relative to the navigation of the European rivers, and other analogous stipulations—should be regarded only as the spontaneous homage of *ignorance* the superior wisdom of the paramount Lawgiver of the Universe, by delivering his great works from the artificial shackles and selfish contrivances to which they have been arbitrarily and unjustly subjected.

“The force of the example in the definitive treaty of peace of 1783, between Great Britain and the United States, by which they stipulated that the navigation of the river Mississippi, from its

source to the ocean, shall for ever remain free and open to both parties, is not weakened by any observations in the British paper. A stronger case need not be presented of the admission of a principle that a State, whose territories are washed by a river, cannot be justly excluded from its navigation to the ocean by an intervening Power. Spain held the entire right bank of the Mississippi from its source to the ocean, and the left bank from the ocean up to the 31st degree of north latitude, from which point, to its source, the residue of the left bank, it was supposed, belonged to the United States and Great Britain, in severalty. Spain, with respect to the mouth of the Mississippi, thus stood, in 1783, in the same relation to the United States and to Great Britain, as Great Britain now does, in regard to the mouth of the St. Lawrence, to the United States. What was the law of that position of Spain, as solemnly declared by both the present contending parties? It was, that the navigation of the river Mississippi, from its source to the ocean, *shall* for ever remain free and open to them both. If Great Britain, by the success of the war terminated in the treaty of 1763, was enabled to extort from France a concession of the free navigation of the Mississippi, as is asserted in the British argument, her condition was not the same in 1783. Yet, amidst all her reverses, without consulting Spain, she did not scruple to contract with the United States for their reciprocal freedom of navigating the Mississippi, from its source to the ocean, through

Spanish territory, and passing the finest settlements and the largest city of Louisiana, as well as all the Spanish fortresses of the lower Mississippi. Is Great Britain prepared to promulgate a law for Spain to which she will not herself submit, in analogous circumstances?

“It is not thought to be necessary further to extend observations on the British paper, upon which I have been commenting. If others, in the course of your negotiation, should be required, they will readily present themselves to you. It is more agreeable to turn from a protracted discussion, which, although we are entirely confident of having the right on our side, if we are to judge from the past, may terminate by leaving each party in possession of the same opinion which he entertained at its commencement, to the consideration of some practical arrangement, which, if possible, shall reconcile the views of both. A river, it is manifest, may pass through the territories of several Powers in such manner as that, if each were to interdict the others its navigable use, within his particular jurisdiction, every one of them might be deprived of all the advantages of which it could be susceptible. And, if the United States were disposed to exert within their jurisdiction, a power over the St. Lawrence, similar to that which is exercised by Great Britain, British subjects could be made to experience the same kind of inconvenience as that to which American citizens are now exposed. The best, and, for descending navigation, the only channel of the St.

Lawrence between Barnhart's Island and the American shore is within our limits; and every British boat and raft, therefore, that descend the St. Lawrence, comes within the exclusive jurisdiction of the United States. The trade of the Upper Province is, consequently, in our power, and a report to the Legislature of New-York, under date 28th March, 1825, (of which a copy is now put into your possession) concludes by recommending an application to Congress to exercise the power, thus possessed by us, in retaliation for the act of the British Parliament of 5th August, 1822, entitled ‘An act to regulate the trade of the Provinces of Lower and Upper Canada.’ If the recommendations of that report were not adopted by the general assembly of New-York, and if Congress has hitherto forbore to place Canadian navigation under any restrictions, in their transit through our territory, it has been because of an unwillingness to follow an unfriendly example, and from a hope that mutual and candid explanations with Great Britain might remove all existing causes of hardship and complaint. Prior to the passage of the British act of Parliament, of 1822, and from the first settlement of the territory of the United States bordering on the lakes and the St. Lawrence, their citizens had met with no difficulty in the disposal of the surplus produce of their industry, consisting chiefly of pot and pearl ashes, lumber, salted provisions, and flour, at the markets of Montreal and Quebec. It was there sold, not for domestic consumption, but for subse-

quent exportation, by sea, to distant markets, principally British West India Colonies. This trade was reciprocally beneficial; the American citizen finding his advantage in a ready sale of his produce, the British subject his, in the commission, storing, and other incidental transactions: and British navigation enjoying the exclusive benefit of re-transporting the produce to its final destination. This trade had increased to such an extent that the single article of lumber, transported down the St. Lawrence in the year 1821, amounted in value to \$650,000, without bringing into the estimate the portion of that article which found its way through lake Champlain and the Sorrel to Montreal and Quebec. This beneficial and innocent trade, so far as it dealt in the principal articles of flour and lumber, was almost entirely destroyed by the duties imposed in the act of Parliament of August, 1822, which, in effect, if not in form, are prohibitory.

“Should not the mutual interests of the two countries, in respect to this trade, independent of any considerations of right in the navigation of the St. Lawrence, ~~produce an~~ arrangement satisfactory to both parties? It is a little remarkable that the opposition to such an arrangement proceeds from the party having the greatest interest in making it. That of the United States, as has been already stated, is simply to sell a surplus produce of labour. The place of its consumption is the West Indies. If it can be disposed of short of that place, at Montreal or Quebec, the citizens of the United States would be content. But,

if they cannot sell it in those cities; if Great Britain, by the imposition of duties, which it will not bear, prevent a sale; they then desire to exercise the privilege of passing out the St. Lawrence, and seeking a market wherever they can find it. Some portion of the produce which would take that natural direction, is now transported through the great canal which unites the Hudson and Lake Erie. When the canal designed to connect the great canal with the St. Lawrence, at or near Oswego, which is in considerable progress, shall be completed, other portions of American produce will seek the market of the city of New York, instead of that of the Canadian Capitals. If another canal, which is projected, shall ever be cut, that which is proposed to unite the St. Lawrence to Lake Champlain, the interest of this country in the navigation of the St. Lawrence will be still further diminished. Contrast this state of our interest in the trade in question with that of Great Britain. It will not be denied that the two British cities of Montreal and Quebec would be much benefitted by the prosecution of the trade. The British tonnage enjoys, and if the navigation of the St. Lawrence were freely thrown open to us, would probably continue to enjoy, the monopoly of the exportation of our produce, either as British or American property, to foreign possessions. That produce serves to swell the list of articles of general commerce in which Great Britain, more than any other nation, is concerned, and ministers directly to the wants of British colonies. If

It enters somewhat into competition with similar produce of Canadian origin, that consideration should be neutralized, by the fact, that the British West India colonist enjoys the benefit of the competition. For it cannot be supposed to be a part of the British policy to shut up the American supply, that one British colonist may thereby sell to another British colonist, at a price somewhat higher than he otherwise could do, without the remotest prospect of its redaction from [for] any length of time that the exclusion and the monopoly might exist. Without extending the comparison further, it must be evident that Great Britain is more, or at least as much, interested in the trade as we are. Our loss is not that of the entire value of the articles which are prevented from reaching a market, under the operation of the British laws, but of the difference only in value, if there be any, between those articles and the substitutes on which our labour exerts itself in consequence of the existence of that impediment. With this view of the matter, I have prepared two articles, which accompany these instructions, under the designation of A and B ; and which may be successively proposed by you, during the progress of the negotiation. By the first, the navigation of the St. Lawrence, up and down, from and to the ocean, is declared to belong to the citizens of the United States ; and the ports of Montreal and Quebec are open to the importation and disposal of their lumber, pot and pearl ashes, flour, and salted provisions, brought from the Lake and St. Lawrence country. The privilege is limited to these articles, because they are all produced in that quarter, which is important should have that vent ; and which, not being supposed to be wanted in those cities for the consumption of either Canada, are, subsequently, exported from those places of entrepôt to foreign countries. From that cause, it would be unreasonable that they should be liable to pay any higher or other duties than similar articles of Canadian origin. There is another reason for the limitation : we could not insist upon a general and indiscriminate admission into those ports of *all* produce and manufactures of the United States, free of duty, without being prepared to allow, as the equivalent, and admission into our northern Territories of all British produce and manufactures on the same terms. But such an admission of British produce and manufactures, if not unconstitutional, would be very unequal as it respects the Lake country and other parts of the United States. The first article also provides for a right of deposit at Montreal and Quebec, or such other place as the British Government may designate. Possibly, the British Government may require a reciprocal privilege of introducing from the Canadas into the United States, free from duty, and their disposing of Canadian lumber, pot and pearl ashes, flour and salted provisions. Such a privilege would be of essential benefit to the Upper Province, in opening to it, through the canals of the state of New York, the market of the city of New York. Should such a stipulation be required, you may agree to it, with

a provision that the inhabitants of Canada shall be subject to the payment of the same tolls, ferriages, and other charges, in all respects, as citizens of the United States, from time to time, are, or shall be liable to pay. You may also agree to add furs and peltries to the list of articles which each party may introduce into the territories of the other, free from duty. This would be a stipulation very advantageous to Great Britain, in opening a shorter and better route to the ocean for those articles, than that through the St. Lawrence.

“ By the second article, our rights of navigation, and to a place of deposit simply, is stipulated, without the privilege of introducing into the Canadas any articles whatever of American produce. Both articles secure to British subjects the right freely to navigate the St. Lawrence, where the channel is within our exclusive jurisdiction. The first would secure all that we can ask; the second the least that we can take.

“ We could not rightfully object to a refusal to sales of American produce, free of duty, within British jurisdiction, however unfriendly it would be. But, in that case, there ought to be no limitation of the articles of our export or import trade. On the supposition of such a refusal, the Canadas would be strictly entrepôts, and not places of consumption of the objects of our trade, in either of its directions; and, therefore, there should be no restriction, as to what we should, or should not, export or import.

“ Between the maximum and the minimum, which those two articles present, there are several

intervening modifications, of which I will now specify some that present themselves, and to which, if you cannot do better, you are authorized to agree :

“ 1. It may be proposed to limit the right of deposit to Quebec.

“ 2. The sale of our produce may be limited to the port of Quebec; and,

“ 3. The list may be increased of the articles which we may be allowed to sell, at either or both of those cities, free of duty, so as to include all, or other, articles of the growth, produce or manufacture, of the United States, with the permission to import into the United States similar produce of Canadian origin, without any corresponding privilege, of introducing into them British, *European*, or other foreign manufactures.

“ If you should find the British Government unwilling to agree to either of the two preceding articles, with or without the modifications, or some of them, abovementioned, you will decline entering into any arrangement upon the subject of the navigation of the St. Lawrence, and take any counter proposals, which they may offer, for reference to your Government. Neither the third article of the treaty of 1794, nor that which was proposed by either party at the negotiation of the convention of 1815, nor that which was offered by Lord Castlereagh, in March, 1817, would serve as a proper basis to regulate the right which we claim to the navigation of the St. Lawrence. Without advert to any other, decisive objections to the third article of the treaty of 1794, are that it comprehended

the Indians on both sides of the boundary between the territories of the United States and Great Britain; and left Great Britain at full liberty to impose whatever duties her policy might dictate, upon our produce entering the Canadian ports. The act of Parliament of August, 1822, would not be contrary to the stipulations of that article. The latter objection equally applies to both the American and British projects of an article, which were proposed, but neither of which was agreed to, in the negotiation of 1815, as well as that of Lord Castlereagh. Nor would the United States find any protection against the exercise of the power of imposing duties, by agreeing to the ordinary stipulation in commercial treaties, restricting the duties imposed to the rate at which similar articles are liable when imported from other countries. Because, in point of fact, no article, similar to those which are imported from our northern Territory into Canada, is introduced there from any foreign country, no foreign country stands in a similar relation to Canada, that the northern parts of the United States do. And Great Britain would not, therefore, be restrained from imposing duties upon our produce, which should even be prohibitory in their effect, by their operation upon similar produce of other countries.

“ Whilst Great Britain may be unwilling to enter into any treaty stipulations, acknowledging our right to the navigation of the St. Lawrence, she may not be indisposed to consent, by her own voluntary act, to repeal all prohibitory and other duties imposed on

American produce, so as to admit it into the ports of Montreal and Quebec on the same terms as the same kind of produce is received from Upper Canada. Such an equal admission of our produce, would, in a great measure, supersede the necessity of discussing and settling, at this time, our right to the navigation of the St. Lawrence, and of considering the regulations which the interests of both parties might require in the practical exercise of the right. Our citizens would enjoy, in those cities, a ready and certain market for their produce, to obtain which, would be the primary object of securing to them the navigation of the St. Lawrence. It is because we cannot demand such an admission and privilege of selling our produce, as a matter of right, and because Great Britain may decline the concession of it, although manifestly beneficial to herself, that we desire to have this interest placed upon some solid and permanent foundation. But, if you should be unable to obtain the British assent to either of the articles proposed, with or without any of the modifications of them, which have been suggested, it would then be satisfactory to have the assurance of the British Government that our produce, or, at least, the principle articles of it, which have been mentioned, shall be received at Montreal and Quebec on the same terms as the like kinds of Canadian produce are there received. And you may, in turn, assure the British Government that the President will recommend to Congress to reciprocate any British acts of liberality and good neighbourhood, in re-



gard to the admission and sale of American produce in the Canadas, by acts of equal liberality and good neighbourhood, on our side, in respect to the admission and sale of Canadian produce in the United States. It is within the competency of the mutual legislation of the two countries to remove many of the existing causes of complaint, without either party conceding or renouncing rights which there might be an unwillingness to admit or surrender.

“By an act of the British Parliament, passed on the 5th July, 1825, entitled ‘An act to regulate the trade of the British Possessions abroad,’ inland importation is allowed into the Canadas, from the United States, in vessels, boats, or carriages, belonging to them, of any goods which might be lawfully imported by sea; but such goods must be brought to a port or place of entry, and are to pay the same duties as if they were imported by sea. They may be warehoused at Quebec, only, for exportation, without paying duty, under certain restrictions; but then the Collectors and Comptrollers of the port are empowered to declare, in a written notice, to be by them promulgated, ‘what sorts of goods may be so warehoused.’ (See 28, 29, 30, 31, 32, 33, and 34 sections, &c., of the Act.) Under this authority, it would be competent to those officers to exclude, at their pleasure, from the privilege of warehousing our most valuable productions. If, by British legislation, (on the supposition that you cannot prevail on the British Government to regulate, by compact, the navigation of the St. Lawrence, in the manner which has been herein proposed,) the

privilege of warehousing our produce was placed on a more stable footing, and we were allowed to export it in our own vessels, it would be a considerable improvement of the existing state of things.

“During the negotiation between Mr. Rush and the British Plenipotentiaries, a desire was manifested by the latter to couple together the disputed points under the fifth article of the Treaty of Ghent, and the right asserted by the United States to the free navigation of the St. Lawrence, and, on the supposition of those two subjects being so blended, the British Plenipotentiaries stated that they were even prepared to make offers of compromise and settlement, founded ‘on a most liberal and comprehensive view of the wishes and interests of the United States.’ These offers were to be made on the basis of the United States waiving their right to the navigation of the St. Lawrence, which, however, Great Britain was willing to grant to them on a full equivalent; and that equivalent, it is to be inferred, was expected, by the British Plenipotentiaries, to be furnished in the disputed territory to which the fifth article of the Treaty of Ghent relates. What those offers were, they declined to communicate to Mr. Rush, although invited to do so, in order that he might transmit them to his Government. The Government of the United States cannot consent to renounce a right which they conceive belongs to them by the highest species of title. If, as the British Government professes to believe, the right has no just foundation, why does it insist upon its renunciation? Nor can this Government agree

to barter away any portion of the territorial sovereignty of Maine, or the proprietary rights of the Commonwealth of Massachusetts, for the navigation of a river in which neither of them has any direct interest. If the question of the navigation of the St. Lawrence could be accommodated in a manner satisfactory to both parties, so as to let the citizens of the United States into the practical and beneficial enjoyment of it, their Government would be willing that the arrangement should be equally silent in regard to the admission on the one side, or the abandonment on the other, of the right as claimed and denied by the parties, respectively. It is not easy to comprehend why the British Plenipotentiaries withheld the communication, to Mr. Rush, of the very liberal offers, which, according to their account of them, they were charged to make. When they appeared disposed to yield to the separation of the two subjects, as urged by Mr. Rush, they still declined to make this proposal of compromise in respect to the northeastern boundary. Under a belief that no prejudice can result to either party from a full communication and a fair consideration of those offers, in respect to either or both questions, you will invite a disclosure of them, for reference home. It is obvious, that no instructions, adapted to them, can be given, until they are known; nor can we come under any preliminary obligation as the price of their communication. If they are ever intended by Great Britain to be brought forward, the sooner it is done the better for the economy of time, and the speedy settlement of the questions, should they prove

acceptable to this Government. Had they been communicated to Mr. Rush, the delay would have been avoided which must now take place from your transmitting them to the United States, and receiving from hence the necessary instructions, if the offers should be made known to you."

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*Extracts of a letter from Mr. Clay to Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary to Great Britain, dated Lexington, 8th August, 1826.*

"Your letter, under date of New York, on the 29th of June last, having been duly received at the Department of State, and submitted to the President, was subsequently transmitted to me at this place, and I now have the honour to address you agreeably to his directions.

"He is very desirous of an amicable settlement of all the points of difference between Great Britain and the United States on just principles. Such a settlement, alone, would be satisfactory to the People of the United States, or would command the concurrence of their Senate. In stating, in your instructions, the terms on which the President ~~was willing~~ that the several questions pending between the two Governments might be arranged, he yielded as much to a spirit of concession as he thought he could, consistently with the interests of this country. He is, especially, not now prepared to authorize any stipulations involving a cession of territory belonging to any State in the Union, or the abandonment, express or implied, of the right to navigate the St. Lawrence, or the surren-

der of any territory south of latitude 49, on the Northwest Coast."

"III. The navigation of the St. Lawrence.—Both the articles, A and B, unquestionably assume that the United States have the right to the navigation of that river, independent of Great Britain. Nor can the President consent to any treaty by which they should renounce that right, expressly or by implication. If a sense of justice should not induce Great Britain to acknowledge our right, some hope has been indulged that she might find a motive to make the acknowledgment, in the power which we possess, on her principles, of controlling the navigation of the St. Lawrence within our limits. If she could be brought to consent to neither of those articles, your instructions did not look to any other treaty stipulations on the subject of the navigation of the St. Lawrence: and what they say with respect to practical arrangements, in other forms, was intended to refer to separate acts of the two parties. You are indeed authorized to take for reference any counter proposals which may be made by Great Britain, because it is possible that some other reconciliation of the interests of the two Powers, than any which has occurred here, may present itself to the British Government; and because, if that were not very likely, such a reference would be still due in courtesy to the other party. Although it is desirable, at present, for the inhabitants of the United States, on the St. Lawrence, to enjoy the liberty of trading to Montreal and Quebec; in their lumber and other articles of produce, charged with no higher duties than similar Canadian commodities, it would be unsafe to as-

sert that, at no time, now or hereafter, would the right of freely navigating the St. Lawrence, with a convenient place of deposit, be available, without the liberty of trading with either of those places. Such a right would open to our navigation a new theatre of enterprise, and if the British colonial markets should be shut against us in consequence of high duties, others equally advantageous might be sought and found. If the British Government should decline agreeing to either of the two articles, A and B, but be willing to receive our produce at Montreal or Quebec, either free of duty, or with such reduced duties as might enable it to sustain a competition with Canadian produce, two modes of accomplishing this object present themselves: one by treaty, and the other by acts of separate regulation. Between them, there is no decided preference. The latter was suggested in your instructions as being that which would be most likely to be attainable, and because it would not involve any abandonment of the rights of either party. If it be liable to the objection that either party may, at pleasure, put an end to it, the mutual interest which recommends its adoption would afford a guarantee of its durability. But you are authorized to consider your instructions enlarged so as to comprehend both modes of effecting the object, taking due care that, if that by treaty should, in the progress of the negotiation, seem to you best, the treaty stipulation shall either expressly reserve the right of the United States to the navigation of the St. Lawrence, in its whole extent, or at least shall be so framed as not to be susceptible of the interpro-

tation that they have abandoned that right. It is believed that the British Government may be made to comprehend, that the privilege of introducing the produce of Upper Canada, as proposed in your instructions, into the United States, and thereby securing the shorter and better route through the State of New York, will be an equivalent for that which we desire in the enjoyment of the markets of Montreal and Quebec. With respect to the right to the navigation of Lake Michigan, on which you suppose the British may insist, the President can see no legitimate purpose for which they should desire it. It cannot be wanted by them, either to reach their own dominions, or those of any foreign country, and stands, therefore, on other grounds than that on which we claim the right to navigate the St. Lawrence; and they are not allowed to trade with the Indians situated within our limits. The same observations are applicable to Lake Champlain."

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*Extract of a letter from Mr. Gallatin to Mr. Clay, dated London, 21st September, 1827.*

"The British Plenipotentiaries will not entertain any proposition respecting the navigation of the St. Lawrence, founded on the right claimed by the United States to navigate that river to the sea.

"Although it may prove hereafter expedient to make a temporary agreement, without reference to the right, (which I am not authorized to do,) I am satisfied that, for the present, at least, and whilst the intercourse with the

British West Indies remains interdicted, it is best to leave that by land or inland navigation with the North American British provinces, to be regulated by the laws of each country, respectively. The British Government will not, whilst the present state of things continues, throw any impediment in the way of that intercourse, if the United States will permit it to continue."

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MR. GALLATIN TO MR. CLAY.

• London, 1st October, 1827.

Sir: I had, at an early stage of the negotiations, ascertained, not only that no arrangement, founded on a recognition of the right of the river St. Lawrence to the sea, was practicable, but that there was a sensibility on that subject which rendered it preferable not to approach it till all others, and particularly that of the Colonial Intercourse, had been disposed of. It was, therefore, only after it had been distinctly ascertained, at the interview of the 13th instant, [ultimo.] with Mr. Huskisson and Lord Dudley, that there was no chance left of the intercourse with the British West Indies being opened, and after the principles of the Convention respecting the Northeast boundary had been substantially agreed to, that I brought forward the question officially at our conferences. I did it without any hope of succeeding, but because this negotiation being the continuation of that of 1824, I apprehended that to admit altogether this subject, might be construed as an abandonment of the right of the United States.

To my first suggestion, the British Plenipotentiaries replied, that,

however well disposed Great Britain might be to treat with the United States respecting the free navigation of the river St. Lawrence, as a question of mutual convenience, yet the views of the British Government being the same now as they were in 1824, and they being prohibited by express instructions from entering into any discussion respecting the free navigation of that river, if claimed as heretofore, by the United States, on the ground of right, they could not entertain any proposition to that effect, if now made by me.

It is sufficiently obvious, that the determination of the British Plenipotentiaries, not to enter into any discussion of the subject, was applicable to themselves, and could not prevent my offering any proposition, or annexing to the Protocol any argument in the support of it, which I might think proper. But it appeared to me altogether unnecessary, if not injurious, to commit my Government, by presenting any specific proposal, with the certainty of its being rejected; or to make this Government commit itself still further, by reiterating its positive refusal to treat on the ground of ~~a right on the~~ part of the United States. I therefore made the entry which you will see in the Protocol of the 20th conference, and which is sufficient for the object I had in view. You had, by your despatch of 8th August, 1826, in conformity with my own wishes, so far enlarged my instructions as to authorize me to judge which method would be the most eligible for the purpose of obtaining, at all events, the admission of

American produce at Quebec or Montreal, free of duty; whether that by treaty, or that by acts of separate legislation. The alternative was not within my reach, as any provision reserving the right of the United States to the free navigation of the St. Lawrence, either expressly, or by implication, was, in the present temper of this Government, out of the question. But, had it been in my power to select the mode, I would have resorted to that suggested in the original instructions, being fully satisfied that we may, with confidence, rely on the obvious interest of Great Britain to remove every restriction on the exportation of American produce through Canada, and need not resort to any treaty stipulation short of at least a liberty, in perpetuity, to navigate the river, through its whole extent.

Whatever motives may have induced the measures which gave rise to the first complaints of our citizens, a different policy now prevails. In consequence of the extension of the warehousing system to the ports of Quebec, Montreal, and St. John's, places of deposit are, in fact, allowed for every species of American produce, free of duty, in case of exportation, which is all that, in that respect, we could ask as a matter of right. The navigation between Montreal and Quebec, either to the sea, or from the sea, has not been granted; and it is precisely what cannot now be obtained by a treaty stipulation, without what would be tantamount to a disclaimer of the right.

But I do not think that, in practice, this will be much longer

denied. There is certainly a disposition, not evinced on former occasions, to make the navigation free; provided it was not asked as a matter of right; and generally to encourage the intercourse between the United States and the adjacent British Provinces. This change of disposition is undoubtedly due, in part, to the wish of obtaining supplies for the West India Colonies, whilst the intercourse between these and the United States remains interdicted. But it also must be ascribed to more correct views of what is so clearly the interest, and ought to be the policy, of Great Britain, in that quarter. It is certainly an extraordinary circumstance, that the great importance of the American inland commerce to her own navigation, and to the prosperity of Canada, should not have been sooner strongly felt, and particularly attended to; that the obstacles to an intercourse, by which American produce is exported through Quebec, in preference to the ports of the United States, should have arisen on the part of Great Britain, and not of the United States.

It is, therefore, to that mode of attaining the object in view, that I have turned my attention. The considerations which recommend the policy of removing, by their own acts, the practical inconveniences which still embarrass the intercourse, have been stated, generally, to the British Plenipotentiaries, but with more force, and more in detail, to Lord Dudley, and to other members of the cabinet. In an interview I had to-day with his Lordship, after having expressed my regret that no arrangement could, at this

time, be made on that subject, and after having urged the *other* reasons which should induce Great Britain no longer to prevent the navigation of the American raft, boats, and vessels between Montreal and Quebec; that, if she persisted in denying it, although I had no authority to say such was the intention of my Government, yet it seemed a natural consequence, and ought not to be considered as giving offence, that the United States should adopt corresponding measures in regard to the navigation of the river St. Lawrence, within their own limits. Lord Dudley, who had appeared to acquiesce in my general remarks, made no observation on the last suggestion.

But, what is somewhat remarkable is, that he, and several of the other Ministers with whom I have conversed, have expressed a doubt whether I was not mistaken in asserting that the navigation of the river was interdicted to our boats between Montreal and Quebec.

Upon the whole, I have great hopes that, setting aside the abstract question of right, and though no arrangement, by treaty, should take place, our citizens will, ere long, and ~~through the~~ acts of Great Britain alone, enjoy all the benefits of the navigation which they could obtain, even if the right were recognized. Should this expectation be disappointed, it is probable that a sufficient remedy will be found in the power to retaliate above St. Regis.

I have the honour to be, &c.

ALBERT GALLATIN.

HON. HENRY CLAY,  
Secretary of State, Washington.

## II.—FOREIGN.

### MEXICO.

#### PRESIDENT'S MESSAGE.

Citizens of the Senate and

House of Representatives :

The year 1826 has closed with an uninterrupted course of prosperity for the republic.

You have again been summoned from your several districts by the public voice to meet in congress—and though the reflection of the time past is sweet and grateful to the memory, the future, big with events, elicits all your attention. Many causes concur to make this national jubilee interesting, for now the strength and vigour of the government is seen in its institutions—the body social and the body politic being bound by the strongest ties, the people satisfied with the government and a general harmony prevailing—a harmony, admirable and happy, and correspondent with the hopes ~~indulged the past year~~, and which we trust a kind Providence, in the infinitude of his mercy, may continue.

Every day our foreign relations are more firm and important. A minister plenipotentiary has been despatched to the court of Saint James to conclude additional articles of the treaty with Great Britain.

From France, commercial agents have been appointed. This con-

duct is in an accordance with the general disposition the European nations have manifested towards the emancipation of this country. The Governments of Prussia and Wurtemberg have in like manner, appointed commercial agents. Nothing has occurred to interrupt our friendly relations with the United States of North America—the treaties of navigation, commerce and amity, concluded with their Minister Plenipotentiary have been ratified by both houses of Congress. The Congress view with peculiar interest this important negotiation with a nation so near to us, and whose system of government is so analogous to our own ; in short, a nation who must ever be united to us by every sympathetic bond.

The American Congress, which attracted the attention of the world, assembled in the city of Panama,—its discussions progressed happily—in September our members returned to lay before the house an account of it ; the sessions of this body are to be continued in the village of Tacubaya. There have already arrived two of the ministers of Colombia and Guatemala, one from the United States, and others daily expected.

There has arrived at this capital

a. minister Plenipotentiary and Envoy Extraordinary from the United States of Central America, to regulate and adjust the limits of the two countries, and to negotiate and settle various interesting points,—Chili and Colombia have likewise sent their respective agents ; in short, all the republics of this sphere are on terms of amity and friendship, which I trust no unforeseen accident will ever interrupt. We turn our eyes from these pleasing scenes to the miserable and abject condition of Spain, sunk as that country is in the lowest abyss of human misery, she wishes to gain advantages in a country which she has for ever lost by her tyranny.

They have reinforced considerably their marine in the island of Cuba and augmented their garrison ; their threats are now well understood. The squadron of Laborde was in the middle of last year cruising on the coast of Colombia, and a short time since two frigates were off the bar of Tampico. This squadron was dispersed by a storm in the West Indies, and it is probable much time will elapse before they are in a fit state for further operations.

The disturbances in the provinces of Guatemala call with an imperious voice on the patriotism of every lover of his country to sacrifice his private passions to the public good.

You must, gentlemen, together, at a time when all our foreign relations are in a peculiar flourishing situation, be judicious and circumspect with respect to the rights of other nations, and let sound and republican sentiments govern you in all your movements.

The state of the finance is flattering—the public revenue is double that of '23 ; the extraordinary expenses then incurred have been much diminished in the present year '27, the republic is provided with an effective marine, the army well clothed and fed, and our warehouses filled with every necessary of life : the receipts from the customs have much augmented in the ports of Vera Cruz ; Tampica de Maunilipas, and Refugio in the north have contributed handsomely. The trade from India and Guayaquil to the ports of San Blas and Masatlan in the Pacific have brought considerable revenue. The regulations of the custom houses and their various appurtenances have received the approbation of the houses.

I would recommend you taking some decided steps in regard to the *tariff*, that the speculations of the merchant may be founded on a fair and unchangeable basis.

A number of old outstanding debts which have been decided in favour of the nation, the legal steps are now taking to recover.

The public credit, both with respect to foreign nations and to those in the employ of the government, has been regularly and strictly observed.

The houses were informed of the state of the funds in London, on the 19th October last ; the agency of this republic is now in the hands of the opulent house of Baring, Brothers & Co.

The executive have viewed with deep feeling the general commercial distresses in Europe the past year ; and very sensibly those in the city of London, so much so, that houses of the greatest opu-



lence and wealth, have been obliged to suspend their payments. Indeed a calamity has been presented without example. The house in which the funds of this government were deposited, was reduced to this unfortunate situation : and in consequence a number of bills of exchange drawn by the minister of Hacienda have been returned protested. For those which have been returned for *non payment*, provision has been made, and for those for *non acceptance* if not paid at maturity the like will be done. The promptness with which these claims have been met, has added new strength to this government, whose credit now stands higher in Europe than any of the southern republics.

In the department of finances, gentlemen, I do not find one branch which has not been admirably conducted. Of this flattering state of things the officer of that department will not be slow in giving you incontestible proofs. The friends of the republic must observe with pleasure that the mines generally are making handsome remuneration for past toil and labour.

The executive are impressed with the honour which will redound to the nation, from the establishment of a *museum of antiquities*. The attention of the naturalist and philosopher is called to this subject.

That great specific which has saved so many from the dreadful

ravages of the small pox, has been propagated through the union, and has been especially useful in the epidemic which prevailed in the province of Yucatan. The improvements made in the roads have been eminently useful to commerce and agriculture—they are still progressing.

The academy for the instruction of marine officers will in time produce effective men for that department.

Every day it appears more necessary for the purpose of good order, to fill various stations of dignity in the church which have been vacated, and it is but our duty to recompense those who by their doctrines, their blood, and their glorious example, contributed in so eminent a degree to bring about, and firmly establish the liberties of this country. The effective marine are now cruising along the coast for the protection of the trade ; and the prevention of contraband. The squadron of Vera Cruz has gone to sea with particular instructions from the government.

In all this vast country we observe order and tranquillity. If in the period of elections some heat is observed, it is the same in all free countries, and is one of those rights consecrated by the law.

Citizens, God protect you ! In all debates let your first object be the good of your country.

GUADALUPE VICTORIA,  
*Pres't. of the U. States of Mexico.*

## TREATY OF COMMERCE BETWEEN FRANCE AND MEXICO.

The following document, under the title of Declarations, is a Treaty of Commerce between Mexico and France.

*Declarations.*

1. There shall be between France and the United Mexican States, friendship, good understanding, and reciprocal freedom of commerce. Their respective citizens shall be free to enter with their vessels, and their cargoes, into every port, every river, and every place, whither strangers are admitted, there to sojourn or remain at any point whatever, to hire and occupy houses and warehouses for the purposes of business, and in general the merchants of each state shall enjoy on the territory of the other, complete protection, liberty, and security. The reciprocal right which this article grants of entering into ports, rivers, or other places in the two countries, does not comprehend the privilege of internal or coasting trade, which, in each of the two, may be subjected to special regulations.

2. The citizens of Mexico shall enjoy, in the different possessions belonging to France, not in Europe, both in respect of commerce and navigation, all the advantages granted to other foreigners; and reciprocally the merchants and navigators of France, coming from the said possessions, shall enjoy in Mexico, in the same respect, all the advantages granted to merchants or navigators coming from any other country.

3. There shall not be imposed,

at the entry into the ports of France of the produce of the soil or of the industry of Mexico—neither shall there be imposed, at the entry into the ports of Mexico of the produce of the soil or of the industry of France, any higher or other duties than those that are or should be paid by analogous produce of the most favoured foreign nation. The same principle shall be observed in respect of exportation; no prohibition shall be imposed at the going out or coming in of the produce of the soil or of the industry of the two countries in their respective commerce, which does not equally extend to the analogous produce of other countries. It is understood, that the first regulation in this article shall not be applicable to the modifications of its tariff of importation which France may think suitable to make in favour of the produce of Hayti, in return for privileges specially reserved to it in Hayti by the Ordonnance of 17th of April, 1825. All produce exported from either of the two countries to the other must be accompanied by a certificate of its origin, delivered and signed by the competent officers of the Customs in the port of embarkation. The certificates of each vessel shall be numbered progressively, and joined, by the seal of the Custom-house, to the manifesto. This last document shall be viewed by the respective Consuls, and the whole must be presented to the Custom-house of the port of entry. In ports of embarkation where there are no Con-

suls, certificates of the Custom-house, always numbered progressively, and joined to the manifest, will be held sufficient to prove the origin; and in such as have neither Consuls nor Custom-house, certificates of origin shall be delivered and signed, always in the same forms, by the local authorities.

4. The duties of tonnage, lights, port dues, pilotage, salvage, and other local charges, will be, in the ports of Mexico, the same exactly for French vessels as those paid, in the same port, by the vessels of the most favoured nation. They will also, in all the ports of France, for Mexican vessels, be exactly the same as those charged, in the same port, for the vessels of the most favoured nation. It is manifest that the same treatment as the most favoured nation, which is secured to Mexican vessels in France by this Article, does not signify, in any case, the treatment of citizens enjoyed by certain people, but solely in virtue of the principle of reciprocity. It being always understood, that, so soon as Mexico shall see fit to grant to the French commerce, in its ports, the same treatment as enjoyed by its own citizens, the commerce of Mexico shall immediately enjoy in France the same privilege.

5. The produce of the soil, or of the industry of France, shall pay the same duties on being imported into Mexico, whether imported in French vessels, or in Mexican vessels. The produce of the soil, or of the industry of Mexico, shall pay the same duties on importation into France, whether imported in Mexican vessels, or French vessels. The produce of the soil, or of the industry of France,

shall pay on their exportation the same duties, and enjoy the same exemptions and allowances, whether the exportation be made by French, or by Mexican vessels. The produce of the soil, or of the industry of Mexico, exported for France, shall pay the same duties, enjoy the same exemptions and allowances, whether the exportation be made by Mexican vessels, or French. It is agreed, however, that by temporary abandonment of the principle laid down in this Article, and according to which, the respective flags ought to enjoy the treatment of citizens in the two countries, in the different operations indicated, those flags shall only enjoy, provisionally in the same operations, the treatment of the most favoured nation. It is, besides, understood, as in the preceding article, that the treatment of the most favoured nation, which is granted to the Mexicans in France, by this provisional regulation, shall not be held to signify the treatment as citizens, which certain people enjoy, but solely in virtue of the principle of reciprocity.

6. To avoid all misunderstanding both with respect to the conditions which are to constitute respectively a French vessel and a Mexican vessel, it is agreed, that all vessels built in France, and all those captured from the enemies of that country, whether by the military marine of the State, or by French subjects entrusted with letters of marque by the Government, and which shall be declared lawful prizes by the competent authorities; and finally, all such as shall be condemned by the tribunals for infraction of the laws against the slave trade, shall be

considered as French, provided, in addition, that the owner or owners, the captain, and three fourths of the crews are French; and, in the same way, all vessels built in Mexico, or captured from the enemy by Mexican armaments and legally condemned, and whose owner or owners, captain, and three-fourths of the crews, are Mexicans (with the exceptions only resulting from extreme cases, and especially provided for by the laws,) are to be considered as Mexican vessels. It is, moreover, agreed, that every vessel, in order to traffic on the conditions above laid down, must be provided with a register, passport, or paper of security, whose form shall be reciprocally communicated; and which, being certified by a person lawfully authorized to deliver it, shall state the name, the occupation, and residence, in France or Mexico, of the proprietary; expressing whether there is one or more proprietors, indicating, if they are sole, or in what proportion, each of them hold the property; the name, dimensions, capacity, and, in a word, all the particulars of the vessel, which may serve to make her recognized, as well as to prove her country. Seeing at the same time, that, in the actual state of the marine of Mexico, it would not be possible for that country to profit by all the advantages of reciprocity established by Articles 4 and 5, if strict regard were paid to the literal meaning and immediate execution of that part of this present Article 6, which imports that to be considered as Mexican, a ship must be built in Mexico, it is provisionally agreed on, that every vessel of what build soever, which *bona fide*

belongs to one or more Mexicans, and whose Captains and three-fourths of her crew, at least, are natives of Mexico, shall be reputed a Mexican vessel: France reserving to herself the right of claiming the principle of reciprocal restriction relative to the building in the respective countries, if the interests of its navigation should happen to suffer from the exception made to that principle in favour of Mexico.

7. Every merchant, every commander of a vessel, as well as all other Frenchmen, shall, in the Mexican States, be entirely free to manage the business of themselves, or to confide the management of it to whom they please, whether factor, agent, or interpreter. They shall in nowise be compelled to employ for that purpose any other persons than those employed by Mexicans, or to pay them any salary or any compensation higher than the latter shall pay in similar circumstances. They shall be equally at liberty, in respect of all their purchases, as of their sales, to establish and fix the price of effects, merchandise, and other matters, whether imported or destined for exportation, as they may see fit, acting always in conformity with the laws and customs of the country. Mexicans shall enjoy in France the same privileges under the same conditions. The natives of each of the two countries shall enjoy, in the territory of the other, a constant and complete protection of their persons and property; they shall have free and facile access to Courts of Justice for the vindication or defence of their rights, and shall be at liberty to employ advocates, attorneys, or agents of any class they think fit; in fine, they shall enjoy, in this re-

spect, the same rights and privileges as are granted to citizens.

8. With respect to the right of inheriting personal property by will or otherwise, and that of disposing of personal property of every kind and denomination, by sale, gift, exchange, will, or any other way whatever; and, finally, in all that relates to the administration of justice, the natives of each of the two countries shall enjoy respectively, in the other, the same privileges, liberty, and rights, as citizens, and they shall not pay any higher duties or imposts than they do.

9. In all that relates to the police of the ports, the loading and unloading of vessels, the security of merchandise, goods and effects, the natives of the two countries shall be respectively subjected to the laws and statutes of the territory where they reside. They shall however be exempt from all compulsory military service either by land or by sea, nor shall they be subject to forced loans. Their property shall not besides be subjected to any other charges, requisitions, or imposts than those paid by citizens.

10. Consuls of each of the two countries may be established in the other, for the protection of commerce; but those agents shall not enter on their functions until after having received the authority of the territorial government. The latter shall preserve besides the right of determining the place where it may think fit to admit them, it being understood that on this point the two Governments shall oppose no restriction that is not common in their respective territories in all nations.

11. The respective Consuls

shall enjoy in the two countries the privileges generally attached to their charge, such as exemption from quartering of soldiers, and from all direct taxes, whether personal, moveable, or sumptuary, unless they be subjects of the country, or have become proprietors there, either as possessors of goods moveable or fixed, or finally have engaged in business, in all which cases they shall be subject to the same taxes, charges, and imposts as other individuals. These agents shall enjoy, moreover, all the other privileges, exemptions, and immunities that are granted in their place of residence to agents of the same rank of the most favoured nation.

12. The respective Consuls shall, on the decease of any of their fellow citizens—1. cross with their seals those placed either officially or at the request of parties intrusted by the competent local authorities on the moveable effects and papers of the deceased; and these duplicate seals shall not be broken but by concert with all the parties—2. attend the inventory made of the deceased's effects after the seals are broken—3. finally claim the transmission of the effects left, which shall not be refused unless in case of opposition from any existing creditor, national or foreign, administer and manage personally, or name under their own responsibility, an agent to administer and manage the said effects left without the intervention of any territorial authority.

13. Unless in case of stipulations to the contrary between the owners, freighters and insurers, the averages for damages which the vessels of the two countries shall sustain at sea, while in progress to

their respective ports, shall be regulated by the Consuls of their nation, unless always the citizens of the country where the Consul is resident are interested in these averages, for they must be regulated in that case, at least, so far as the citizens are concerned, by local authority.

14. All operations relating to the salvage of French vessels wrecked on the coast of Mexico, shall be regulated by the French Consuls, and reciprocally the Mexican Consuls shall direct the operations relating to the salvage of vessels of their nation, on the coast of France. The interposition of the local authorities shall, however, be used in each country in order to maintain order to guarantee the interests of the parties, if they are strangers to the crew shipwrecked, and to ensure the execution of the regulations for the entry and export of the merchandise saved.

15. The respective Consuls shall be exclusively charged with the internal police of the vessels of their nation, and the local authorities shall not interpose therein, in virtue of Article 9, which reserves to them the police of the ports only, in so far as the disorders that take place may be of a nature to trouble the public peace, either by land, or on board of other vessels.

16. The respective Consuls shall cause to be arrested, and conveyed, either on board or to their own country, sailors that desert any vessels of their nation. For this purpose, they shall address, in writing, the competent local authorities, and shall justify their interference by the exhibition of the registers of the vessel, or of the list of the crew, that the men they claim formed part of the said crew, and upon such a demand, so supported, the delivery of the parties shall not be refused. Moreover, all help and assistance shall be given them in searching for, seizing, and arresting the said deserters, who shall be detained, and guarded in the prison of the country, on the requisition, and at the expense, of the Consuls, until those agents have found an occasion of getting them conveyed away. If, however, such an opportunity do not occur within three months, counting from the day of their arrest, the deserters shall be set at liberty; nor shall they be a second time arrested for the same cause.

17. The archives, and in general all the papers of the office of the respective Consulates, shall be inviolate; and, under no pretext shall they be seized nor inspected by any local authority.

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## COLOMBIA.

### MESSAGE OF THE VICE-PRESIDENT TO CONGRESS, JAN. 2, 1827.

Fellow-citizens of the Senate and  
Chamber of Representatives,

I was far from thinking, when I  
addressed my last message to you,

that I should now have the painful duty of referring to wounds which the internal events of the Republic opened in our hearts.

The order and progress with which Colombia was advancing in her political career, when the last ordinary session of the Congress commenced, announced to the people days of consolation and tranquillity, and impressed me with the agreeable idea of terminating the period of my administration, by leaving the Republic completely tranquil under the guarantee of its institutions, its external relations established, the sources of national prosperity opened, the funds and the administration of justice improved, education increasing, public credit consolidated, the magazines of war supplied, a competent maritime force equipped, and what is more, the Spanish Government disposed to concede to us peace; but Providence, which mocks the projects of man, to teach us to know our weakness, has permitted that the most melancholy and calamitous events should serve as a trial of our constancy and love of liberty. I proceed to exhibit to you this picture with the correctness and impartiality which my character and your representative duties demand; not to afflict you and dishearten you through your affliction, but that, knowing the evil, you may be able to apply a due remedy. What ought to inspire you with confidence in attempting this, is, on the one hand, the firmness and efficacious co-operation of the Executive Power, and, on the other, the progress which various branches of the public administration have made, in spite of those agitations which were calculated to impede them.

Endeavours to bring about peace between Spain and the

American States were continuing to be made with the Cabinet of Madrid, by those Powers who, consulting their own interests, recognise our right to independence, when the event of Valencia, of the 30th of April, took place. The executive had succeeded in inducing the most respectable Governments to interest themselves in this object, and the principal argument on which they founded the claim to peace was the internal order and stability of our institutions. Unfortunately, this basis has lost all its force, and the negotiations have been suspended. The Government of His Catholic Majesty, re-inspired with the hopes of conquest, or at least of invasion, which had long seemed dead, when the commotion of Venezuela resounded in its ears, conceived the idea of involving us in a civil war: but the Executive, without withholding from the restoration of constitutional order all the attention which its duty imposed, took care to prepare the means of external defence as far as circumstances would permit, and relied tranquilly on the national spirit and the well known valour of the army. The carrying into effect the hostile views of the enemy's Government, is now less probable, since its domestic affairs absorb all its attention—since it has lost the fortified posts of Ullon, Callao, and Chiloe—and since the forces which it assembled in the island of Cuba are reduced. However, in any event the Colombians well know how to defend and preserve their independence, with the same glory with which they acquired it.

Our relations of friendship with all the States of America,

far from having sustained any diminution, are acquiring that augmentation on which their welfare and felicity depend. The great American Assembly contributed efficaciously to perfect the alliance of the Republic with some, and to define clearly our political and commercial connexions with others. This Assembly met at Panama on the 22d of June, and was attended by the Representatives of Central America, Peru, the United Mexican States, and Colombia, and laid open the great volume of the destiny of America. The American Congress occupied but a few days in its first session, but its labours are of immense importance. The Secretary of State for Foreign Affairs will soon present to you the treaty of union, league, and confederation, between the States that assembled, to which the rest of South America may unite itself—the convention which fixes the contingent which each confederated State is to furnish for the common defence—and the agreement with respect to the mode of employing and directing the contingents thus furnished—the convention which regulates the annual meeting of the Assembly in time of war—and different declarations founded on the treaties which Colombia had entered upon, and concluded with the Governments of the States represented at the Congress at Panama. The assembly transferred its sittings to Tacubaya, in the United Mexican States, to which the executive readily gave its consent, desirous to respond to this mark of confidence and friendship, and to the proofs of interest and fraternity, which the

federal government of that republic had exhibited towards us. At Tacubaya there assembled, in addition, the Representatives of Rio de la Plata, of the new Republic of Bolivia, of the Emperor of Brazil, and the Ministers of the United States of North America, whose philanthropic Government having accepted the invitation which we made to it, took a corresponding interest in this important object. Probably, Great Britain and the Netherlands will, on a future occasion, send their Commissioners, invested with the same powers as those that went to Panama. The Provisional Government of Peru has passed an Act, recognizing the Republic of Bolivia, but the province of Rio de la Plata appears to have refused to pass a similar one. The executive of Colombia has been pained at this circumstance, and it trusts in the prudence and wisdom of the Magistrates, in whose charge are the destinies of both States, that they will hearken solely to the common interest, the national wish, and the necessity of peace. The Government of the United Provinces of Central America has received the Plenipotentiary of the Republic, with the ordinary formalities, and, as, among other instructions, he was charged with the duty of exchanging the ratifications of the treaty of union, league, and perpetual confederation, concluded in that capital on the 15th of March, 1825, he has performed that duty, notwithstanding the variations made by the Government of Central America, in one of the articles, impeded the punctual observance of the treaty. The



President of the United States of Rio de la Plata, has also received the Charge d'Affaires of the Republic, with the forms which practice and custom require. At the same time, the executive takes no official notice of the nature and state of the question that has arisen between that Government and the Emperor of Brazil. The Governor of Colombia has been extremely afflicted at the contemplation of the Argentine soil being again stained with blood, in consequence of the war declared by the Cabinet of Janeiro, and they have taken the most lively interest in what has happened to the Republic, with a view to the cessation of hostilities, and the peaceable settlement of existing differences. The mission of Colonel Palacios to his Majesty the Emperor of Brazil, in quality of Minister Extraordinary, is one of the steps which the executive has taken, with a view to peace, and as a proof at the same time of our inclination to maintain the best harmony and friendship with Brazil.

The treaty of friendship, commerce, and navigation, was ratified in London on the 7th of November, 1825, without any alteration; and, since then, care has been taken that the conditions should be fulfilled with the greatest fidelity, such conduct being the source of confidence between Governments and nations. In fulfilment of the treaty concluded with the United States of North America, I have despatched a decree, giving to the citizens of the said States equal commercial privileges and exemptions as those granted by the Republic to the subjects of

His Britannic Majesty. I fear that the state of agitation which the events of Venezuela produced may have given occasion to the violation of some articles of these and of other existing treaties. The Executive, however, as yet knows nothing of this; but I can assert, that, imprest with the purest good faith and the most lively desire for the welfare of the allied, friendly, and neutral nations, no effort will be neglected for repairing any violation.

“The Government of His Most Christian Majesty has appointed, through the medium of a subaltern authority, a superior commercial agent to superintend the interests of France in the Republic. The Executive is well aware that the forms observed in this appointment are not those recognised by the law of nations; and had it not been for that circumstance, the Government of Colombia would have issued its *exequatur*, and would have been happy to enter into a communication with a person of such distinguished qualities as M. Martigny. Nevertheless, the Government being desirous of proving to France and to His Most Christian Majesty, its anxiety to establish and maintain relations of peace and friendship, has permitted the agent to superintend French commerce in the terms, and according to the manner in which, under similar circumstances, permission was formerly given to English and Dutch commercial agents. The Executive, therefore, confidently hopes that the French Government, far from delaying the recognition of the sovereignty of Colombia, will avail itself of every favourable

opportunity for securing the progress of the industry of its people, by entering into relations with the Republic. The Colombian flag now waves in the ports of France, in consequence of the regulations made by the Government of that country.

I must particularly mention the negotiation, by virtue of which we have seen independence secured to a neighbouring island, for which it had combatted with glory and right. Hayti has received peace from Charles X., and received it with joy, because it was the commencement of renewed friendship with its Mother Country. The Government of Colombia has participated in the pleasure that has fallen to them, and, besides being gratified in its desire of seeing all people enjoying rational liberty, it feels peculiar gratitude for what Hayti has accomplished. The relations which we have endeavoured, with so much anxiety, to establish with the Apostolic See, have not succeeded. The Minister of the Republic returned from Florence to Rome, but does not appear to have bettered his situation. By this time, his letters of leave have been delivered, conformably to the last regulations decreed by the Libertador President.

I have already hinted to the Congress, that the political commotion of Valencia, in this department of Venezuela, damped the progress of the Constitutional system, under the shade of which the Republic enjoyed tranquillity until that ominous day. You know that the Chamber of Representatives received with interest the complaints of the local authorities

of Caracas, against certain abuses, which the Commandant-General, Jose Antonio Pacz, had committed, in execution of the decree for enlisting militia; that the Executive had, a year before, warned him to execute that decree with discretion and prudence, avoiding to give any ground for offence or any commotion, which might render it necessary to resort to arms, or to inflict serious punishments. Whether the Chamber see fit to justify the abuses of which the municipality of Caracas complain, or whether an exalted zeal for the preservation of the guarantees of citizens, oblige it to take such steps as are calculated to check abuses of a similar kind, one thing is certain, that it was resolved to accuse the General-Commandant before the Senate, and having, in fact, passed the accusation, the Senate found it convenient to admit it. This accusation which, much as it might offend the self-love of the accused, and which might be charged as springing from levity or from excitation, inspired some of the people with the strongest hopes of stability and order, but produced, in certain towns, disorder and disunion.

The decree of the Senate, and of the Executive Power, despatched in fulfilment of article 100 of the Constitution, were disobeyed. Gen. Pacz was not only retained in his command by a resolution of the municipality of Valencia, but that of Caracas invested him with a superior authority unknown to our political system. This proceeding gave origin to many others, all hostile to the union proclaimed by the fundamental law; and, on Nov. 7, a popular as-

sembly in Caracas decreed the independence of that country.

The department of Venezuela, the province of Apure, a canton of Barinas, and, more recently, Margarita, adhered to the decrees of Valencia, through the medium of their municipalities; and, in fact, separated themselves from the sway of the National Government. The executive had sufficient reasons for believing that neither the wishes of the Venezuelan people, nor those of the whole of the army, had concurred in spontaneously approving the above-mentioned Acts, and this was declared by the decree of the 8th July, and in the Manifesto published by my orders. This opinion has been confirmed by the event of the battalion of Apure, and all its officers, and that of Puerto-Cabello, both of which renounced obedience to General Paez. The conviction that the people of Venezuela were not guilty—the horror with which they contemplated a war between Colombians—the approaching arrival of the Libertador—and the hope that the power of opinion would restore order, joined to other considerations of not less weight, made me think it advisable to labour at producing that effect, which you will find set forth in the documents which will be laid before you, taking for my guide the Constitution, and for my support the national opinion. That alone, doubtless would have been sufficient to smother discord, and re-establish the empire of the law, if spirits, enemies of peace—timid, weak, or ambitious—had not introduced popular juntas, and if the authorities had displayed

that firmness which was due to the honour and welfare of the country. In Maracaibo a popular meeting, which is permitted by no law, demanded the convocation of the Grand Convention before the period determined by article 191 of our code, and other municipalities of the province adhered to that demand. In Guayaquil, Quito, and Cuenca, the juntas deliberated with the same feelings, but, a few days after, those same popular juntas proclaimed the Dictatorship, and the Bolivian Code, trampling, by that measure, on our own Constitution. Cartagena, Panama, and Maracaibo again assembled their popular Meetings, and declared the necessity of investing the Libertador with unlimited power. Cumana and Barcelona, in like manner, solicited, by similar meetings, the acceleration of the national convention, and thus finished the picture of the commotions, errors, and infractions of the law that had been begun in Valencia. And the whole of this was passing at the moment that the Spaniards were hovering off our coasts on the side of the Atlantic with a considerable squadron—when in Madrid, the friendly powers were endeavouring to prevail on the Spanish Government to grant peace to America—when public credit was threatened with the most utter ruin—when the very earth was shaken, and afflicting the inhabitants of the interior. I leave it to your judgment what must in this situation have been the anxiety of the Executive at finding itself involved in such serious difficulties, and surrounded by so many obstacles in its en-

deavours to preserve the internal order of the Republic under the ægis of the Constitution. Fortunately, the cause of liberty and of law was not abandoned in the dissident provinces, nor even in the very cities which had issued illegal proclamations, and the Executive authority found support wherever there was a judicious Colombian and true patriot. What words are capable of sufficiently applauding the fidelity, firmness, and attachment to the political laws, of the people and the authorities of the provinces of Bogota, Antioquia, Neyva, Mariquita, Tunja, Socorro, Pamplona, Casanara, Guayana, Mompos, Merida, Popayan, Buenaventura, Pasto, Chocos, and Barinas—or the exemplary conduct of General Bermudez, the prudence of Generals Urdaneta and Guerrero, and other illustrious chiefs, who do honour to the Liberating Army of Colombia? The Executive Power cannot sufficiently describe what is due to those provinces, and their civil and military authorities, by the country. History and posterity will do them justice. In the mean time, I recommend them to the representatives of the nation in the most earnest manner.

In the midst of this deluge of calamities, in which the fidelity of the before-mentioned provinces saved the ark of our rights, the Iris of salvation, the Libertador, President of the Republic, appeared, for whose presence all called—the innocent and the guilty, the just and the unjust. The Libertador closed the wounds of Guayaquil on the 12th of September, and in his passage to this capital, ordered the re-establish-

ment of the legal government, which had been subverted in the departments of the South, rejecting, with a horror worthy of the first citizen of Colombia, the Dictatorship, which, without power or right, certain popular juntas had conferred on him. On the 14th of November he arrived in this city, and departed on the 25th, having executed, in the course of the only two days during which he would exercise the Government, various economical regulations, and the decree of the 23d of November, which I venture to call immortal, because, having therein declared that he took upon himself the exercise of extraordinary powers, which, on account of cases like the present, are permitted by article 128 of the Constitution; that he was desirous of preserving our political code, until the nation should, by legitimate means, reform itself; and that the laws were to remain in their former vigour in every thing in which the exercise of those extraordinary powers were not requisite, I think that the national honour and glory of General Bolivar are saved.

You must allow me to decline entering into an examination of the causes of the commotion in Venezuela, and the other political disturbances which have afflicted us. Their authors mention several, and have not failed to attribute many of them to me. You, who join to a correct and sound judgment a knowledge of the good and evil experienced by our constituents, can enter into an examination of them, and apply some remedy, capable not only of assuaging the anguish at present

suffered by the body politic, but of guarding against any return of similar misfortunes. I, joining in the views of the Libertador President, take the liberty to request three things of the Representatives of Colombia for the public good :—that the Congress should not deceive itself, and conceive that the desires expressed by some few men, actuated by discontent or fear, are the freely expressed general desires of the people ; secondly, that the Congress look with an eye of pardon and indulgence upon those who have gone astray ; and, lastly, that it frame clear, decisive, and just laws, to prevent, for the future, the occurrence of events so fatal as the present. With respect to myself, I entreat—and I do it as earnestly as I should beg for life—that the Congress will be pleased to take into consideration the accusations which the discontented have brought against the Executive Power ; to examine them with impartiality ; and to let all the rigour of the law fall upon me. For my wilful faults, in which malice and perversity may have had part, I neither ask nor seek indulgence. Should the Congress overlook political sins committed by the first authorities of the nation, it would be as culpable as those who trample under foot the social compact. In opposition to this mournful picture, I may place the progress which has been made in the education of youth, the means for which are to be still further spread, according to the organic law, and the plan of public instruction, confided by a special decree to the Executive power. The primary schools, on the

Lancasterian plan, have been increased—the colleges and schools have been improved—and the central University of Bogota, with the National Academy, have lately come into operation. The administration of justice may have been improved, by the incorporation of the authority of the greater District Judges in the Cortes of the Departments, as, by suits being more quickly concluded, the costs are diminished, and a great watch kept up over the tribunals charged with the administration of the laws in different districts ; but the internal disorders of the Republic, which have extended their malignant influence over every thing, have occasioned the suppression of the Cortes of Guayaquil and Zulia. The same cause has produced fear and dread in those who contracted to colonize the uncultivated lands ; so that, although almost the whole million fanegadas of land appointed by Congress have been distributed, I have been obliged to resume them, in conformity with the contracts. The reduction and civilization of the Aborigines has been retarded, as they are objects which would lead to great expenditure of time and money ; the latter of which, the national finances cannot at present spare ; and for the former, one year is not sufficient to gather the fruits of many years perseverance. The province of Pasto is completely tranquillized, and its inhabitants, after promptly and willingly seconding the active efforts of its Governor, now dedicate themselves to repair, by industry, the calamities of war. The penury of the national finan-

ces has continued to harass the Government in an unspeakable degree. The moral force of the laws, and of the government, being relaxed, and all those relating to taxes being hated, the Treasury receives no money, whilst the Executive receive daily demands from the army, from creditors, and from the whole Administration. The hopes that were formed that the new system of finance, adopted at the last Congress, would have augmented the produce of the revenue, at least till it equalled the public expences, have been wrecked in the political storms of which I have informed you. As soon as a city conceives itself justified in rising and declaring that the constitution, the laws, or the administration, are prejudicial to the common good, every tax-payer sees the opportunity of strengthening the inclination he has to infringe the laws which regulate the public revenue. You, yourselves, will see and examine the provisional regulations (which have been made in virtue of the powers given by the 128th article of the Code,) the documents relating to which will be presented to you. To urge Congress upon the attention and preference which ought to be given to the National Finance, is to repeat a truth sufficiently notorious, the experience of which has already cost us much. Money, as you have heard from another authority, is to the body politic what blood is to the natural body; without it the State cannot exist, and to form a National Treasury, it is necessary that the citizens should contribute a part of their means. The direction of public credit has been opportunely

placed, but whilst the law which founds the foreign and domestic debt, as well as the continual zeal of the Committee in the discharge of their duties, have imparted buoyancy to the national spirit, and created hopes in our creditors, the commotions which the political system has undergone, have impeded the operation of the law, and it has not had that exact observance which it would have had in peaceful times, under the sway of the Constitution. Thus it is, that not having been able to satisfy the interest of the foreign debt due in July and November last year, the public credit, has suffered a decline of very great extent. The revenue from the Post-office and the Mint, has increased, and promises further considerable improvement, which is much owing to the intelligence, zeal, and activity of their directors. I have ordered all the documents and papers to be collected relative to the loan of 1824, which will show the manifest utility of that transaction—the amount remitted to the Republic—its distribution—and the application of the funds reserved in London, according to the contract—in order that the general account may be made out in the clearest and most intelligible manner, and that it may be presented to you for the information of the nation. Notwithstanding the declarations and decrees published by the last Congress, ignorance and perversity have joined to annoy the Government, on account of this transaction. The ignorant think, that after having, for more than two years, employed the funds derived from the loan, in various heavy expences, which

have been printed, and of which the Congress is cognizant, that the Treasury is still full of money, which may be continually withdrawn to defray the national expenditure, and thus avoid the imposition of taxes. The perverse, turning their eyes from the accounts presented to the public, and from the laws which have appropriated to different services the proceeds of that loan, invent charges and raise doubts, which they continually repeat, always casting blame on the Government. It is necessary that the Congress should take this into its serious consideration, and, by its deliberations, it may, in some measure, restrain the excess of the passion for calumniating the Government, which is now more than ever heated by the commotions in Venezuela. Peru has not been able to satisfy any part of the debt it has contracted with us; but if the performance corresponds to the promises made by the Government of that country relative to this affair, I trust that the payments made will cover the interests of the foreign debt for two years, and that the Colombian people will receive that relief from the money which still remains due, on account of the loan of twenty millions of dollars, and which the failure of the house of Goldschmidt has hitherto prevented us receiving. The state of peace in the interior, with regard to the common enemy, has not required any military operations; thus it is that the army had no other occupation than guarding the frontier departments, and concluding the pacification of Pasto. Ready to defend the independence of the country, with

the heroism which fifteen years of war has witnessed, the Government and the Republic have rested in security, amidst the hostile preparations with which the enemy's Government menaced them. In the internal disturbances, a great part of the army has obeyed the law, which prohibits it being a deliberative body—has showed itself a worthy defender of the national liberties and the Constitution—has supported the measures of Government, and reanimated the hopes and confidence of the citizens. This conduct will for ever preserve the honour and glory of the liberating army of Colombia, without a stain. A body of Colombian troops remains in Peru; the rest of the army has passed into Bolivia, by virtue of a decree of the last Congress. Both bodies act with the honour and discipline so fitting in a republican army. I request, for the fourth time, that the Congress will pass a law, settling the mode in which invalid soldiers should be allowed to retire from the service, the pension they shall enjoy, and the other privileges to which, in strict justice, they are entitled. In like manner, I request them to pass a law, appointing some relief to the families of those who may have died, or who may die, fighting, or in any manner losing life for their country. The naval force is receiving such increase as the state of our public finances will allow, in order to enable it to put to sea, and join the Mexican squadron, and act in conjunction with it, agreeably to the Convention agreed upon between this Government and that of the Mexican Republic. Our efforts were

tardy in equipping the squadron assembled at Carthagena, for it was neither possible quickly to collect the crews, or provide the pecuniary means necessary for that purpose; but, at length, we shall enjoy the interesting object proposed by the Convention to which I have alluded. To the interruption which these preparations have suffered by the above-mentioned causes, as well as by a failure in the fulfilment of a contract made for transport vessels, ought to be added, the resolution adopted by the Libertador President, in his decree of the 24th November, which will likewise be laid before you for your consideration. The education of youth in the nautical schools continues to receive every possible attention; the Directors and Masters have well fulfilled their duty, and not disappointed the confidence of the Government and the public. This, Senores, is the state of the Administration in the calamitous year of 1826. The Secretaries of State will unfold, in their respective memorials, the objects of their negotiations in such a way, as to give the Congress all the information which is to be acquired only by experience in the practice of Government.

This would be the place to present you with a parallel of the Republic of Colombia, in the year 1821, when I took charge of the Administration, and in 1826, when my functions terminate: and it would seem the more necessary, as you are about to commence yours in the midst of profound affliction, at observing the state of agitation in which we are involved, and perhaps prejudiced at the accusations brought against me by the

discontented. But I leave to sound and impartial public opinion, the strict examination of the good and evil that I may, of my free will, have caused the nation, during the five years and three months that I have occupied the post I am about to resign. It is publicly known that I was called to the Government without any wish of my own, and when my inexperience was known to all. My constant attention to the difficult duties of my office have been seen. It is equally well known, that, instead of taking direction and command, all that I did was to execute the fundamental laws enjoined by the constitution—that I have not only filled the office of executor of the law, but frequently that of legislator by delegation of Congress—that I have been constantly obedient to the written will of the people, have never swerved from the Republican principles, and have used, with prudence, the extraordinary powers confided to me—in one word, Colombia must acknowledge that no citizen has feared the power placed in my hands, for none have I deprived of his liberty or property, and the Republic has enjoyed its full freedom. I cannot express all the bitter feelings of my heart at seeing Colombia divided, and falling from the eminent station which she had taken in the moral and political world. My blood would be too small a sacrifice to see it again in the same flourishing state to which it had reached before April 30. You, who have the power of legislating, and the opinion of your constituents, are called upon to wipe away the tears of your country, to heal its wounds, to re-establish national concord, and to preserve the honour, glory,



and reputation of the Republic. Without that, and the confidence that you will efficaciously co-operate with the Libertador President, in objects so interesting, our grief would have no end, and the name of Colombia, which has been our best title to the estimation and admiration of the civilized world, would become a memorial of our shame and degradation. With respect to myself, I have nothing to regret, but that I did not separate myself from the Administration in the last Session of Congress, as I had intended to do, and that I concurred with the Legislative Body, in burthening the nation with the debt of twenty millions of dollars incurred by the last loan, to which we have been driven by circumstances, so imperious and urgent, that it was impossible to be avoided. But I believe I have done nothing which can dishonour me in the eyes of an impartial world. If I had found the Republic, in 1821, free from the common enemy, and now left it occupied in part, or entirely, by him—if I had found it, after the establishment of the Constitution, and the spread of love and respect for the laws, and left it in anarchy, without more law than the caprice of the magistrates might choose to administer—if I had found it full of schools and colleges, and fully enlightened, and left it plunged in ignorance, with every establishment of learning destroyed—if I had found it regenerated, and free from vulgar prejudices, and left it in the most abased state of blindness and torpor—if I had found it fully peopled, traversed by excellent roads, with steamboats and charitable establish-

ments, and left it depopulated, without roads, and in a state of nature—if I had found it recognized by all the nations, or at least by some of them, and left it without foreign relations, and treated as a rebel country—if I had found it allied with the other American States, and left it at war with them—if all those States had been independent from the year 1821, so as to render it unnecessary to extend a friendly and generous hand to them, and now I left some of them sighing in slavery by the fault of my government—if the public revenue had been perfectly organized, and had always produced sufficient to defray the public expenses, and now I found it ruined by my interference—if, instead of the foreign and domestic debt created by eleven years of war, which I received instead of a Treasury, I had found the Republic without obligations of any sort, and now left it compromised and overwhelmed with the weight of an immense debt, wasting in decay, and by inequitable enterprises—then, and then only, I should have to seek an asylum, wherein to hide my shame, and my heart would fail me in imploring the pardon of my fellow citizens. But, thanks to the Providence which has watched over the destinies of Colombia, the Republic in 1826 differs much from what it was in 1821, and, without attributing to myself the merit of that difference, I may console myself with the reflection that in filling the first post in Colombia, I have not been an obstacle to the accomplishment of so much good. This consolation—the having avoided a civil war in the present

disturbed state of the country, and the honour of having been the first to whom the Representatives of the Colombian people confided the difficult task of establishing the Constitution—(twice associating me with Bolívar in the supreme magistracy)—will, at all times, entitle me to public estimation, even had I performed no services to my countrymen, during the sixteen years of our glorious regeneration.

(Signed)

FRANCISCO DE PAULA SANTANDER.  
Bogotá, January 2d, 1827.

MESSAGE OF THE VICE-PRESIDENT  
SANTANDER TO THE GENERAL  
CONGRESS OF COLOMBIA.

Fellow-Citizens of the Senate and  
Chamber of Representatives,

The fifth session of the Congress of the Republic was to have been opened on the second day of January, of this present year, and on that same day I was to have ceased my functions as Vice-President of Colombia: the law had regulated the one and the other. For that reason I had prepared and printed the ordinary Message of the Executive Power previous to the 2d of January. Very peculiar circumstances, which did not come within the sphere of my control, interfered to prevent the assembling of the legislative body with the weight of all good patriots, until now, when, fortunately, the nation is worthily and constitutionally represented in this Congress.

Great and important are the objects which you have to investigate; great and well-founded are the hopes of our constituents and those of the Government.

In the Message of the 2d Jan.

I communicated information respecting the state of the Republic in all its branches. I have now to inform you of the events that have occurred since that time.

My continuance in the exercise of the Government, has depended on two causes—first, because the Libertador, the President, thought it expedient in the agitated state of the Republic, to suspend the law which fixed the cessation of the functions of President and Vice-President, to twelve o'clock of the second day of January, in the last year of the Constitutional period; and my heart counselled me not to oppose, under circumstances of so much difficulty, the arrangements of the Libertador; and secondly, because my continuance was the least illegal act that I could commit during the past crisis, after the doubts that had been admitted by the Libertador, respecting the duration of his authority. The documents respecting this transaction will be submitted to Congress.

My first care on this occasion, has been to watch over the public tranquillity, to support the power of the laws, to assist in the measures adopted by the Libertador for the re-establishment of that order which has been deranged in some of the towns of the North, and to provide for the assembling of the present Congress. The extraordinary powers with which I was invested have been so sparingly exercised that I am well assured the tremendous authority I held has scarcely been felt in Colombia. Our relations with foreign powers have continued to extend. A Consul-General and a Vice-Consul have been duly nominated

by the King of the Netherlands, who are to reside in this capital, and a Consul for the city of Guayra. The Executive has expedited the corresponding *exequatur*, and will profit by this conjunction, to establish, on a footing of the most pure friendship, the relations of Colombia with the King of the Netherlands.

The person appointed by the order of the Government of France to serve as superior Agent for French Commerce, has lately received the title of Inspector of Commerce in Bogota and its dependencies, being that given him by the Minister for Foreign Affairs: but the Executive finding new difficulties in sending him his *exequatur*, has suspended it until the connexion between the Government of Colombia and his Most Christian Majesty can be defined with clearness, and according to the public rights.

The Kings of Denmark, Prussia, and Bavaria, have shown an interest in opening relations with the Republic, and establishing them permanently, for the good of the respective countries. The executive have met this interest in the most favourable manner, without, however, compromising the national dignity, or departing from the rules which have been adopted with respect to the nations with whom we have entered into public treaties.

The Libertador President proclaims in a decree, promulgated at Maraicabo, that his duty binds him to employ the armed force, to bring under the obedience of the National Government, the towns which have separated themselves from it, and, in fact, all his measures

actively join to bring about so laudable a result. From Boyaca, Maraicabo, and Cartagena, auxiliaries of all kinds went forth. General Urdaneta directed his course to the west of Venezuela, and the Libertador President his, to the town of Puerto-Cabello, which was already separated from the refractory party. The towns hastened to proclaim their obedience to the Libertador President; and the dissentient authorities of Venezuela laid down their arms and submitted with the rest.

These successes will be made more particularly known to the Congress, by the documents which will be laid before it, as soon as ready. In them will be seen the loyalty of the districts of Mantecal, Guadualito, and other towns of the province of Apure, at the head of which the faithful and brave Colonel Inchazu placed himself; it will also be seen, that the influence of the Libertador President, with the mildness and indulgence with which he accompanied all his acts, quenched the flames of civil war, re-established the divine sway of the laws, and brought peace to Colombia.

The Congress will be well able to appreciate the immense blessings of domestic peace, under the protection of which it can discuss the interests of the nation, and listen to its remonstrances. Instead of the disasters, lamentation, and tears, which the civil wars had caused, nothing is now to be seen but sincere desires to heal the wounds of our country, and to attend to its true happiness. The evil seemed inevitable; in Cumana, the precious blood of Colombians had already flowed; the

fratricide cannon thundered in Porto Cabello ; a disastrous conflict was preparing in Apure between the very soldiers who had overcome the Spanish army—hated, revenge, and division, threatened to involve the Republic in ruin and desolation. But with the experience which the people already had of the evils they suffered, at the voice of the Libertador, at the presence of his troops, on hearing his promises, order succeeded to confusion, hope to despair, confidence to fear, reason to passion, and peace to war. Such is the state of the Northern Departments, according to the most recent communications received from the Secretary-General of the Libertador.

" I press upon the Congress the necessity of revising the organic law relating to Schools. The censures to which they have been subject are notorious, and the Executive desires that you may examine the subject in the councils of your wisdom, in order that public education may be spread throughout the vast extent of Colombia, and that there may not be a Colombian who may not enjoy its benefits. The plan of public instruction decreed by the Government, being merely provisional, its reform and amelioration depend on the reforms which may be made in the law, and upon the lights which experience may furnish. It is satisfactory to me to communicate to the Congress, that the produce of the public revenue in the last economic year, from the 1st July, 1825, to 30th June, 1826, has been greater than that of the preceding year ; and that the estimate of the expenses

for the present year, is so inferior to the past, that it will not nearly equal the revenue. But it is easy to conceive all the malignant influence that the disturbed political state of the country, which we so much lament, must have had on the national resources. Freed from that, and considering the above-mentioned state of the revenue, it is indubitable that the increase of income, and the reduction of our expenses, would have been so considerable that, in the end, we should not only have balanced our expenses and receipts, but should have assured public credit, and consolidated the floating debt, without loading the people with taxes, which in preceding years, have borne too heavy on them. I recommend this matter to your careful consideration, assuring you that there now exists such disorder and confusion in the national finances that it is impossible to provide for the expenses of the Administration and the obligations of the Republic. The Finance Minister will lay before you the last measure adopted by the Executive to pay the interest of the foreign debt, which it was not possible for us to do last year, and which object has been to the Government a cause of great pain and anxiety.

Nothing has happened with respect to the army, except the movement of the auxiliary division of Peru, which took place in Lima the 26th of January. The division on that day deprived the officers, whom the Libertador had appointed with the full authority of Government, of the command. The acting authorities of that division have solemnly renewed their former

oaths of submission and obedience to our constitutional laws, a renewal which gives assurance of the fidelity of those authorities, and which the division could not have given, had it not first of all separated itself from its chiefs. The Congress will see in the documents which will be laid before it by the Secretary of War, the prudence with which the Executive has acted in this delicate affair, and the critical situation of those authorities. The subject will be separately considered on another occasion.

The co-operation of Government in the execution of the determinations of Congress, as far as they conduce to public good, is an obligation on its part, whose fulfilment you may expect in all circumstances. The nation has shown its confidence in you, and you have deserved it, and in that confidence it has appointed you to legislate for its dearest interests.

Make yourselves worthy of it under the blessings of the liberal world. Consecrate yourselves with zeal and firmness, to the radical cure of our political wounds. Your honour and that of Colombia—your fortunes and those of the people you represent—your fate and that of your country, a country worthy of all our sacrifices, depend upon your voices.

Your determination is the death or life of Colombia. Europe and America contemplate you, and posterity waits with justice to execrate or bless your memory. For myself, First Representative of the Republic of Colombia, its First Magistrate in the actual exercise of Government, an old soldier of liberty and faithful subject of the laws, I cannot nor will not barter the glory of my country and its institutions for ruin and anarchy.

F. DE PAULO SANTANDER.

Bogota, 12th May, 1827.

## BOLIVIA.

### ADDRESS OF GENERAL BOLIVAR TO THE CONSTITUENT CONGRESS OF BOLIVIA, ACCOMPANYING THE PLAN OF A CONSTITUTION FOR THE GOVERNMENT OF THAT STATE.

Legislators!

On presenting you with the plan of a constitution for Bolivia, I feel myself overwhelmed with confusion and timidity, from a persuasion of my unfitness for the task. When I reflect that the wisdom of ages is not sufficient to draw up one fundamental law which is perfect, and that the most enlightened legislator is the immediate cause of human misery, and a mockery, as it were, of his divine mission, what am I to say of the soldier

who, born amongst slaves and buried in the deserts of his country, has seen nothing but captives in chains, and brethren with arms in their hands to break them? I a legislator! Your mistake and my engagement dispute the preference: I cannot say who suffers most in this dreadful alternative—you, from the evils you must apprehend from the laws you have asked of me; or I, from the disgrace to which your confidence condemns me.

I have made every effort to explain to you my opinions on the manner of governing free men according to the principles adopted amongst civilized nations, although the lessons of experience only present long series of disasters, interrupted by occasional gleams of good fortune. What guides are we to follow through the gloom of such sorrowful examples?

Legislators, your duties call upon you to resist the shocks of two powerful enemies which are constantly contending with each other, and both will attack you at once; tyranny and anarchy form an immense ocean of oppression, which surrounds a small island of liberty, perpetually struggling against the violence of the waves and hurricanes incessantly threatening to bury her in the deep. This is the sea in which your frail bark has to navigate, and whose pilot is so inexperienced.

The plan of a constitution for Bolivia is divided into four political powers; one more having been added, without complicating the principal division of each of the others. The electoral power has received attributions which were not given to it in other Governments, generally considered to be most liberal. These attributions very much resemble those of the Federal System. It has appeared not only prudent and useful, but likewise easy, to give to the immediate representatives of the people, the privileges which would be most coveted by the citizens of each department, its provinces and cantons. No object is of more importance to a citizen than the election of his legislators, magistrates, judges, and pastors. The electoral colleges of every pro-

vince represent its wants and interests; and are the organs of complaint for infraction of the laws, and for abuses of the magistrates. I may venture to say, with some foundation, that this branch partakes of the rights enjoyed by the Government of the states of the Federal System. In this way a new weight has been placed in the balance against the executive power; and the Government has acquired fresh guarantees, more popularity, and additional claims to rank among those which are most distinguished for their democratic principles.

Every ten citizens name an elector; the nation is thus represented by the tenth part of its citizens. Nothing is required but capacity, even property is not necessary, to exercise the august functions of sovereignty; but he must know how to write his vote, sign his name, and read the laws. He must profess some science or an art by which he can secure an honest livelihood. None are excluded but those who are vicious, idle, and grossly ignorant. Knowledge and honesty, not money, are what is required for the exercise of the rights of the people.

The legislative Body is so composed that it must necessarily harmonize amongst its different parts: it will never be found divided for want of a judge to arbitrate, as frequently occurs where there are only two chambers. There being here three, the difference between two is decided by the third; the question is examined by two contending parties, and another impartial one who decides it; in this way no useful law is put aside, or at all events it will have been discussed once, twice, or three times

before it be rejected. In all affairs between two adverse parties a third is chosen to decide, and would it not be absurd not to adopt a measure, dictated by imperious necessity, in the most important interests of society? The Chambers will thus preserve towards each other those considerations which are indispensable to the conservation of the union of the whole, who ought to deliberate in the silence of the passions in the calmness of wisdom. Modern congresses, it will be said, have been composed of only two bodies. It is because in England, which has been their model, the nobility and the people ought to be represented in two chambers; and if in North America they did the same, although they had not nobility, it is probable that habits derived from their living under the British Government induced them to imitate it. The fact is, that two deliberating bodies must be in a continual state of contention; on this account Sieys proposed that there should be only one strange absurdity!

The first chamber is that of Tribunes; they have the right of proposing all laws relative to finance, peace, and war. This body has immediate inspection over those branches administered by the executive with least interference on the part of the legislature.

The senators have the formation of the codes and ecclesiastical regulations; they watch over the administration of justice and over public worship. The senate chooses the prefects, judges of districts, governors, corregidores, and all other persons filling subordinate situations in the courts of justice. It proposes to the chamber of cen-

sors the members of the high court of archbishops, bishops, prebends, &c. Whatever has relation to religion and the laws is under the superintendence of the senate.

The censors exercise a political and moral authority, which has some resemblance to that of the Areopagus of Athens and of the Censors of Rome. They are, as it were, the fiscals of the nation against the Government, to watch over the religious observance of the constitution and public treaties. I have placed under their protection the national jury, which is to decide on the good or bad administration of the executive.

The censors are the protectors of public morals, the sciences, the arts, public instruction, and the press. The censors exercise the most terrible as well as the most august functions. They condemn to eternal opprobrium the usurpers of sovereignty and illustrious criminals. They grant public honours to the services and virtues of illustrious citizens. The appreciation of glory has been confided to their hands; the censors ought, therefore, to be of unsullied innocence and unspotted life. If they err, they shall be accused even for trifling faults. To these priests of the laws have been confided the custody of our sacred tables; for they it is who are to prevent their profanation.

The President of the Republic, in our constitution, becomes as the sun, which, immoveable in the centre, gives life to the universe. This supreme authority should be perpetual, because in those forms of society where hereditary rank is unknown, a fixed point, around which magistrates and citizens, men and things, should revolve, is

required more than in others. "Give me a place to stand upon," said one of the ancients, "and I will move the world." In Bolivia this point is the president for life. Upon him depends all the regularity of our system, without on that account his possessing any active interference. He has been deprived of his head that his intentions may not excite alarm, and his hands have been tied that he may injure no one.

The President of Bolivia possesses some of the powers given to the executive in the United States, but under restrictions favourable to the people. His continuance in power is the same as that of the President of Hayti. I have taken for Bolivia the executive of the most democratic republic in the world.

The island of Hayti (you will forgive me thus digressing from my subject) was in a continual state of disturbance; after having tried an emperor, a king, a republic, all known forms of government, and others beside, she was forced to have recourse to the illustrious Petion for her salvation. They placed their confidence in him, and the destiny of Hayti was no longer subject to vacillation. On Petion being chosen president for life, with power to choose his successor, neither the death of this great man, nor the succession of the new president, have caused the least commotion in the state; every thing has gone on under the distinguished Boyer with the tranquillity of a legitimate monarchy;—A triumphal proof that a president for life, with the power of naming his successor, is the most admirable feature in the republican system.

The President of Bolivia will be less dangerous than that of Hayti, the mode of succession being more secure for the welfare of the state. Besides, the President of Bolivia is deprived of all influence: he neither appoints the magistracy, nor the judges, nor to ecclesiastical offices, however subordinate they may be. This deprivation of power has never yet taken place in any well-constituted Government; it adds obstacle to obstacle in the way of the authority of a chief, who will always find the whole people under the influence of those who exercise the most important functions in society. The priesthood has the control over the consciences of the citizens, the judges over their property, their honour, and their life, and the magistracy over the public acts of the nation. Being indebted to the people for their dignity, their glory, and their fortune, the President cannot hope to engage them in his ambitious designs. If to this consideration we add that which arises from the constant opposition a democratic Government meets with at every step of its administration, it appears not unreasonable to suppose that the usurpation of the rights of the people is less likely to occur in this Government than in any other.

Legislators, henceforward liberty will be indestructible in America. Observe the uncultivated aspect of this continent, which alone expels the idea of a monarchical form of Government: its deserts invite us to independence. Here there is no high nobility, no high church dignities. Our wealth was almost nothing, and at present it is even less. Although the church



possesses influence, it is far from aspiring to dominion, satisfied with its own preservation. Without this assistance, tyranny can never be permanent; and if some ambitious characters exert themselves to raise empires, the example of Dessalines, Christophe, and Iturbide tells them what awaits them. There is no power so difficult to maintain as that of a new dynasty. Buonaparte, the conqueror of all that opposed him, was not able to overturn this rule, stronger even than empires. And if the great Napoleon was not able to hold up against the league of republicans and aristocrats, who could found monarchies in America, on a soil illuminated with the brilliant flame of liberty, which consumes the materials of which those royal scaffolds are to be constructed? No, legislators, do not fear pretenders of the Crown; it would be on their heads like the sword hanging over Dionysius. Those founders of modern dynasties, who are blind enough to construct thrones on the ruins of liberty, will raise tombs to their ashes, which will inform future generations how they preferred their insane ambition to liberty and glory.

The constitutional authority of the President of Bolivia is the most restricted of any that is known; he only names those employed in the departments of finance, of peace and war; he commands the army. This is the extent of his powers.

The administration is entirely given to the Ministry, who are responsible to the censors, and subject to the jealous vigilance of all the members of the Legislature, the magistrates, judges, and citi-

zens. The Custom-house officers and the soldiery, the only agents of this Ministry, are not, indeed, the most likely to engage popular favour on their side; their influence, therefore, will be nothing.

The Vice-President is the magistrate most fettered by restraints that ever held command; he obeys conjointly the Legislature and the Executive of a Republican Government. From the former he receives laws; from the latter orders; and between these two barriers he has to proceed in a path beset with difficulties and surrounded by precipices. Notwithstanding these inconveniences, to govern thus is preferable to absolute power. These constitutional barriers strengthen his political conscience, and afford him well-grounded hopes of meeting with a light to guide him among the rocks by which he is surrounded; they act as a support against the assaults of our passions in concert with the self-interest of others.

In the Government of the United States it has been latterly the practice to choose the Prime Minister to succeed the President. Nothing is so judicious in a Republic as this; it has the advantage of placing at the head of the administration a person experienced in the affairs of Government. When he enters upon the exercise of his functions, he goes prepared, and carries with him the breeze of popularity and a practical knowledge of business. I have taken advantage of this idea, and I have established it as a law.

The President of the Republic appoints the Vice-President, that

he may govern the state, and succeed him in the command. By this means the period of elections is avoided, which is productive of that great scourge to republics—*anarchy, the luxury of tyranny, and the most dreadful as well as most immediate danger, which threatens popular Governments.* By this means also this dreadful crisis passes over in Republics the same as in legitimate monarchies.

The Vice-President must be a man of consummate integrity ; for if the first magistrate does not select an upright citizen, he must fear him as his most dangerous enemy, and be in constant suspicion of his ambitious designs. The Vice-President must endeavour to deserve by his services that confidence which is necessary to enable him to carry into effect the duties of his high office, and to hope to obtain his great reward from the nation—the supreme command. The Legislative Body and the people will exact capacity and talents from this magistrate ; and will require his blind obedience to the laws of liberty.

Hereditary succession is what principally tends to perpetuate monarchical institutions, and makes them so general throughout the world ; how much more advantageous is the order of succession I have proposed for the Vice-President ! If the heirs of princes were chosen for their merits, and not by chance ; and instead of remaining in inactivity and ignorance, they were placed at the head of the administration ; they would doubtless become more enlightened monarchs, and would be the delight of their subjects. Yes, legislators, those monarchical in-

stitutions which govern the world, found their claims to approbation on the order of hereditary succession, which makes them stable, and on union, which makes them strong. For this it is, that although a sovereign prince is a spoiled child, shut up in his palace, educated by flattery, and a victim to his passions ; this prince, whom I will venture to call the laughing-stock of mankind, governs a portion of his fellow-creatures, because he preserves order in the state of things, and subordination among his subjects by the immutability of his power and the steadiness of his policy. Consider, legislators, that these great advantages are united in a President for life and an hereditary Vice-President.

The Judicial Power which I propose is most completely independent ; no where is it so much so. The people present the candidates, and the Legislature chooses those who are to fill the seat of justice. Unless the judges derive their origin from the people, it is impossible to preserve in all its purity this safeguard to the rights of individuals. These rights it is, legislators, which constitute liberty, equality, security, all the guarantees of social life. The truly free constitution is written in the civil and criminal codes ; and the tyranny most to be dreaded is that exercised by the tribunals in the name of the laws. Generally the Executive is but the depositary of the common weal ; but the tribunals are the arbitrators of what is our own, of the property of individuals. The judicial power is the measure of the prosperity or misery of the people ; and if there be liberty, if there be justice in the

Republic, it is distributed by it. The political organization, provided the civil be perfect, is sometimes of little consequence; let the laws be religiously fulfilled; let them be as inexorable as fate.

According to the opinions of the day, we of course have prohibited the rack and extorted confessions; we have also cut off the prolongation of law-suits in the intricate labyrinth of appeals.

The territory of the Republic is by Prefects, Governors, Corregidores, Judges of the Peace, and Alcaldes. My limits have not allowed me to enter into a detail of their organization and of the extent to be given to the jurisdiction of each; it is, however, my duty to present to the Congress some regulations concerning the government of the departments and provinces. Bear in mind, legislators, that nations are composed of cities and cottages; and that on the welfare of these depends the felicity of the State. You can never pay too much attention to the good government of the departments. This point is of the utmost importance in the science of legislation; it is, notwithstanding, too much overlooked.

The armed force has been divided into four parts—the troops of the line; the navy; the national militia; and the military corps of Custom-house officers. The duty of the troops of the line is to defend the frontier. God forbid that they should turn their arms against their fellow-citizens! The national militia is sufficient to preserve internal tranquillity. Bolivia does not possess an extensive coast; a navy, therefore, would be useless; some day, notwith-

standing, we may have both one and the other. A corps of Custom-house officers, under military discipline, is in every respect preferable to simple Custom-house officers; this service is more immoral than superfluous; it is, therefore, the interest of the Republic to guard its frontiers with troops of the line, and with troops of Custom-house officers against the machinations of fraud.

I have proposed that the constitution of Bolivia should be reformed at certain periods, according to the movements of the intellectual world. The steps to be followed in the introduction of reforms have been laid down as I have thought most advisable.

The responsibility of persons in public situations is laid down in the constitution of Bolivia in the most explicit terms. Without responsibility, without restraint, the State becomes a chaos. I venture to urge strongly the members of the Legislature to pass the strictest and most definite laws upon this important subject. Every one talks about responsibility, and there it ends. There is no responsibility, legislators: the magistrates, judges, and public officers abuse their authority, because the agents of the Government are not under rigorous restraint, and the people, in the mean time, are the victims. I would recommend the passing of a law which should direct every person employed under Government to give annually an account of his conduct.

The most complete guarantees have been established; civil liberty is the only true liberty; the rest are merely nominal, or have

but little influence on the condition of the people. Personal security, which is the object of man's entering into society, and from which the others emanate, has been guaranteed. With respect to that of property, it will depend upon the civil code, to the composition of which you ought immediately to dedicate your talents, for the benefit of your fellow citizens. I have preserved intact the law of laws, equality; without it, all our guarantees, all our rights are null. To it we must sacrifice every thing. At its shrine I have immolated the infamous laws of slavery.

Legislators! Slavery is an infraction of every law. The law which recognized it would be most sacrilegious. What right can be alleged for its continuance? Look upon this crime in every point of view, and I am satisfied there is not one inhabitant of Bolivia so depraved as to pretend to justify this most scandalous violation of the dignity of man. One man to be owned by another! A man to become property! God's image put to the yoke like a beast! Tell me, where is to be found a defence of these usurpers of man? Guinea cannot furnish it, for Africa, laid waste by fratricide, only presents a field of crime. The remains of those African tribes having been transplanted here, what power can sanction the right of property over these victims! To transmit, to prolong, to eternalize this crime, mingled with torments, is an outrage revolting to our nature. To found a right to possession upon the most savage delinquency, could never be imagined without overturning every element of justice, without

the most determined perversion of every idea of our duties. No one can destroy the sacred doctrine of equality: and can slavery exist where equality is proclaimed? Such contradictions would be taken as evidence of our want of sense, rather than of justice; we should be considered more as madmen than as robbers.

If there did not exist a God, the protector of innocence and liberty, I would prefer the condition of the lion, ranging uncontrolled the desert and the forest, to that of a captive at the mercy of a mean tyrant, who, an accomplice of his crimes, will provoke the anger of Heaven: but no; God has destined man for freedom; he protects him, that he may exercise the heavenly gift of free will.

#### PROCLAMATION.

*Simon Bolivar, Liberator of Colombia and Peru—Considering:*

I. That it is my duty to return to Colombia when she recalls me;

II. And that I am authorized, by the decree of the Sovereign Congress of Peru, of the 10th February, 1825, to invest whomsoever I would, with the supreme command, in my absence;

*I hereby order and proclaim:*

I. That the Grand Marshal Don Andres Santa-Cruz and the Secretaries of State, succeed me for the time, in the full and supreme magistracies of the Republic;

II. That the Vice Presidency of the Executive Council, when it becomes necessary, shall be held by one of the members of the Council, chosen by lot;

III. That the President of the Council shall appoint Secretaries at War and of the Navy.

IV. That the Executive Council shall convoke the Legislature, to meet in the month of September of the next year; ●

V. And that the Secretary General shall make these orders and this proclamation known, to whom it may concern.

Head Quarters, Lima, Sept. 1st, 1826.

SIMON BOLIVAR.

For His Excellency, the Liberator,  
JOSE GABRIEL PEREZ,  
Secretary General:

Peruvians!

Colombia calls, and I obey. I now feel how much I love you; for I cannot tear myself away, without the deepest sorrow.

I had conceived the bold design of being your benefactor:—but it is I that am loaded with the honourable burthen of your munificence, my public services vanish, before the monuments they have earned from the generosity of Peru; and even the recollection of them will be lost in your unbounded gratitude.—You have surpassed me.

I do not all depart; for I leave you my love, in the President and executive council, fit depositories of the Supreme authority; I leave you my confidence, in the magistrates that govern you; I leave you my political opinions, in the constitutions which I have offered; and I leave you your independence, in the heroes of Ayacucho. The legislature will, next year, render permanent, by the wisdom of their acts, all the blessings of liberty. There is but one danger which you have to fear: and I provide the remedy.—Continue

to dread and shun the tremendous evils of anarchy; and you are secure!

Peruvians!—You have a thousand claims to my heart; I leave it with you for ever. Your happiness, and misfortunes shall always be mine: there shall be but one destiny for us both.

BOLIVAR.

Lima, Sept. 3d, 1826.

DECREE OF THE EXECUTIVE  
POWER.

*Simon Bolivar, Liberator President of Colombia,*

Taking into consideration, 1st. The state of agitation in which the Republic now finds itself, in consequence of the transactions in Venezuela, and that it is divided in opinion with regard to the political administration; and alarmed at the prospect of a civil war, and an invasion from abroad by the common enemy. 2d. That there are well founded reasons for apprehending that the Spanish Government intends to renew hostilities with the forces which it is assembling in the island of Cuba. 3d. That the majority of the Departments have declared it as their opinion that the President of the Republic should be invested with such extraordinary powers as may be indispensibly necessary to re-establish that national integrity, and preserve Colombia from civil and foreign war; and, 4th. That the Executive Power has already declared itself to be within the case of article 128 of the Constitution, and has therefore opportunely convoked the Congress; and desiring on the one hand to correspond to the confidence of the people, and on the other to preserve the present Constitution until the

nation, by legitimate and competent means, may effect a reform of it, I have concluded, upon consultation with the Council of Government, to decree, and do decree, the following:

Article 1. From this day forward I am a President of the Republic, within the case of article 128 of the Constitution, and in the exercise of all the extraordinary powers emanating from it, both for the purpose of re-establishing internal tranquillity and for securing the Republic against anarchy and external war.

Art. 2. In my absence from this capital, the Vice-President of the Republic, being charged with the executive power, will exercise

the said extraordinary powers in all parts of the territory where they cannot be immediately exercised by one.

Art. 3. Except with regard to the matters and affairs which may be decided to come within the scope of the exercise of the said extraordinary powers, the constitution and laws will be duly observed.

Art. 4. An account will be rendered to the *next* Congress of all that may be done in virtue of this decree, as is provided in the said article 128 of the Constitution.

Dated the 23d November, 1826, and signed by General BOLIVAR and the Secretary of State for Domestic Affairs.

## BRAZIL.

### SPEECH OF DON PEDRO, EMPEROR OF BRAZIL, TO THE TWO HOUSES OF ASSEMBLY, MAY 3, 1827.

Most worthy Representatives of  
the Brazilian Nation,

I open the Constitutional Assembly with the enthusiasm which has always attended this act, but not with the same satisfaction, as my heart is penetrated with grief consequent upon the death of my most beloved consort the Empress, who died on the 11th December last, leaving this world for the habitation of the just—the place appointed by the Most High for those who, like her, have led a life of virtue and religion. This bereavement, so unfortunate for us all, took place while I was in the Province of Rio Grande, endeavouring, by all the means which the love of country could suggest, to terminate the war between

Brazil and Buenos Ayres, by rousing up the energies of the brave inhabitants of that Province. This war continues, and will continue, until the *Banda Oriental*, which is ours, shall be freed from its invaders, and Buenos Ayres shall recognize the independence of Brazil, and of that Province which has freely and with one accord, declared themselves part of our Empire. I am confident that this assembly will co-operate and promote the objects proposed at their last session, in conformity to the answer to the speech from the throne, presented to me by a deputation from this body.

The organization of a system of finance will claim your first attention, for the existing one (as

will appear by the Report of the Secretary for that department) is extremely defective, and gives facility to every species of embezzlement; a *new* system of finance that shall prevent these speculations which the present laws facilitate, and which the government has not been able to check, although every means has been devised to administer a remedy. This system must be based on a good judiciary system.

We have no laws suited to the present ideas of justice; the old laws are contradictory, the judges do not know how to decide, individuals suffer, criminals go unpunished, and the salaries of the judges are not sufficient to guard them from temptations to bribery and corruption. It is therefore necessary that this Assembly should lay the foundation of public felicity and tranquillity. Without a good system of finance, and without an independent administration of justice, no nation can exist. I am aware that there are many subjects claiming the attention of this Assembly, that every thing cannot be accomplished at a single session, that much has been postponed from session to session, but it is necessary to commence with unanimity in these two essential points, and when subjects call for attention, I expect it will be given by this Assembly without loss of time, as every moment is precious and indispensable. In a state of war when affairs are not organized, it is requisite that the government should be clothed with the power to prevent speculation of the public money, to punish those public servants who neglect their duty, and those

who shall dare to disturb the public order.

No one more than I yields a ready obedience to the laws, but those who evade them are not promptly punished. The Government requires a special power to enforce punishment until the time shall arrive when every thing shall be reduced to order, and the national welfare shall be constitutionally promoted. The friendly relations of the Empire with those nations who have representatives here are in a settled state, and the departure of the Minister of the United States, so unexpectedly and causelessly, ought not to disturb us, as I rely on the prudence of the President of the United States, and the good sense, justice and impartiality of the North Americans.

The marriage rites of my daughter the Queen of Portugal, have been celebrated at Vienna, and I expect daily the arrival of my brother, her husband.

The constitutional principles are triumphant in Portugal, despite of the parties that opposed them, and this must ever be the case with that charter which was so constitutionally and legally given to the kingdom.

Relative to our own immediate concerns, I must say, I am fully persuaded, that all those who do not think with me, are not Constitutional Imperialists, but covert monsters, who only wait a favourable moment to quench their thirst in the blood of those who are the supporters of the Throne of their country and the defenders of their own religion. I am fully convinced that there is not one member of this assembly, who

does not think as I do, as to the means proper to accomplish our main object, which is, to have the Empire firmly established and the people perfectly happy.

Thus, Representatives of the Brazilian nation, I have recommended what appears to me most beneficial to our national in-

terests. I leave you then, confident, that in my speech at the closing of this present session, I will have it in my power to say, '*I have nothing more to expect, I am perfectly satisfied, the nation is pleased, we are happy, thanks to the Assembly that has so wisely legislated!*'

## LOWER CANADA.

### SPEECH OF THE LIEUTENANT-GOVERNOR.

Gentlemen of the Legislative Council,  
Gentlemen of the Assembly,

I come to close this session of the Provincial Parliament, convinced, by the state of your proceedings, that nothing likely to promote the public interest can be now expected from your deliberations.

To you, Gentlemen of the Legislative Council, who have attended your duties in the Session, I offer my thanks on the part of his Majesty, as an acknowledgment of the regard which, by your presence, you have shown to the welfare of your country, and also of that proper respect which you have manifested for the Sovereign from whom your honours are derived.

Gentlemen of the Assembly—

It is painful to me, that I cannot speak my sentiments to you in terms of approbation and thanks. The proceedings of this Session impose upon me a duty, of which, however unpleasant, I will acquit myself as a faithful Servant of my King, and a sincere friend to the Province.

Many years of continued discussion on forms and accounts

have proved unavailing, to clear up and set at rest a dispute, which moderation and reason might have speedily terminated. It is lamentable to see that no efforts or concessions of His Majesty's Government have succeeded in reconciling those differences of opinion in the Legislature; but it is infinitely more so, that differences on one subject should cause a rejection of every other measure which His Majesty's Government recommends to your consideration.

The duties expected of you in this Session were not difficult: among the first was an examination of the public accounts of last year, and a report upon them, whether of approval or otherwise. Has that duty been done, so that your country can know the result?

Have you considered the estimated expenditure for the current year, and granted the supply required in His Majesty's name? or have reasons been assigned for the refusal of them, that can be known and understood by the country?

Have the messages from His Majesty's representatives been duly acknowledged, and answered,



according to the rules and forms of Parliament, or according with the respect which is due by each Branch of the Legislature to the others?

Have the rules or orders of proceedings in the House of Assembly been duly attended to, in so far as they recognize the prerogative rights of the crown?

These are questions, gentlemen, which you are now to ask yourselves, individually, and answer to your constituents on your return to them.

These are questions which you are to answer to your own consciences, as men who are bound by others of fidelity to your country and to your king.

In my administration of this government, I have seen seven years pass away without any conclusive adjustment of the public accounts; thus accumulating a mass for future investigation, which must lead to confusion and misunderstanding. In the same years I have seen the measures of government directly applicable to the wants of the province, thrown aside without attention, and without any reason assigned. I have seen the forms of Parliament utterly disregarded; and in this session a positive assumption of Executive authority, instead of that of Legislative, which last is alone your share in the constitution of the state.

The results of your proceedings in this session have been, the refusal of the supplies necessary for the ordinary expenses of government, the loss of the militia bill, the failure of all provisions for the maintenance of prisoners in

your jails and houses of correction for the support of insane and foundlings, and for the establishment of education and charity, and a total obstruction of local and public improvement.

In this state of things, and with this experience of past years, it is now no longer consistent with a proper discharge of the high trust committed to me, to entertain hopes of a return to better reason in the representative branch of this Parliament; but it is still my duty to call upon you as public men, and to call upon the country, as deeply interested in the result, to consider seriously the consequences of perseverance in such a course.

I shall conduct the Government with the means in my power, with an undiminished desire to do good; but while I must submit myself to the interruption of all public improvement, under the authority of the civil government, I will declare my deep regret at such a state of things; I think it right to convey to the country, a free and unreserved expression of my sentiments upon these public misfortunes; and I will leave no doubt on the public mind of my determination to persevere firmly in the path of my duty, with a faithful regard to the rights of my sovereign, with which are also combined the best interests of the Province.

It only remains for me now, compelled by existing circumstances, to prorogue this Parliament, whatever may be the inconvenience resulting to the Province from such a measure.

March 7, 1827.

## EUROPE.

## GREAT BRITAIN.

SPEECH OF THE KING TO PARLIAMENT, NOV. 21, 1826.

My Lords and Gentlemen,

I have called you together at this time for the special purpose of communicating to you the measures, which I judged it necessary to take in the month of September, for the admission into the ports of the United Kingdom of certain sorts of foreign grain, not then admissible by law.

I have directed a copy of the Order in Council issued on that occasion to be laid before you, and I confidently trust that you will see sufficient reason for giving your sanction to the provisions of that order, and for carrying them into effectual execution.

I have great satisfaction in being able to inform you that the hopes entertained at the close of the last session of Parliament, respecting the termination of the war in the Burmese territories, have been fulfilled, and that a peace has been concluded in that quarter, highly honourable to the British arms, and to the councils of the British Government in India.

I continue to receive from all Foreign Powers, assurances of their earnest desire to cultivate the relations of peace and friendly understanding.

I am exerting myself with unremitting anxiety, whether singly or in conjunction with my allies, as well to arrest the progress of

existing hostilities, as to prevent the interruption of peace in the different parts of the world.

Gentlemen of the House of Commons,

I have directed the estimates for the ensuing year to be prepared, and they will, in due time, be laid before you.

I will take care that they shall be formed with as much attention to economy, as the exigencies of the public service will permit.

The distress which has pervaded the commercial and manufacturing classes of my subjects, during the last twelve months, has affected some important branches of the revenue. But I have the satisfaction of informing you, that there has been no such diminution in the internal consumption of the country as to excite any apprehensions that the great sources of our wealth and prosperity have been impaired.

My Lords and Gentlemen,

I have deeply sympathized with the sufferings which have been for some time past so severely felt in the manufacturing districts of the country.

I have contemplated, with great satisfaction, the exemplary patience with which those sufferings have been borne.

The depression under which the trade and manufactures of the country have been labouring has abated more slowly than I had

thought myself warranted in anticipating. But I retain a firm expectation that this abatement will be progressive, and that the time is not distant when, under the

blessing of Divine Providence, the commerce and industry of the United Kingdom will have resumed their wonted activity.

## NETHERLANDS.

ADDRESS OF THE MINISTER OF THE INTERIOR TO THE STATES  
GENERALL, MAY 9, 1827.

Noble and mighty Lords,

I come by order of the King, to close the Session of the States-General, and to thank your Lordships in the name of His Majesty, for the activity and loyalty of your co-operation, in the different Legislative measures that have been successively adopted. Among the labours which have occupied this Session, the laws relative to the *Garde communale*, and the organization of the judicial powers present themselves in the first place. Long and profound discussions, upon these important matters, have testified to the nation the conscientious pains you have bestowed upon their examination. In regulating, definitively, the institutions prescribed by the fundamental law, you have, in the one case established at length, upon their true basis, the independence

and security of the country ; and the other, you have especially assured to it the benefit of a form of judicature suited to the requirements of public justice. Your Lordships have, moreover, this Session, fixed the income and expenditure of the State ; and have favoured, by modifications in the tariff of customs, the development of national industry. These important labours have not, by your aid, your powers, and your zeal, fallen short of the expectations of the nation. This reflection will accompany you to your homes, and your fellow-citizens will surround you with the gratitude and felicitations of which I am at present the bearer on the part of the King.—In the name of His Majesty, I declare the present Session of the States-General to be closed and terminated.

## FRANCE.

### KING'S SPEECH.

On the 12th Dec. 1826, the King opened the session of chambers at the Louvre, by the following speech.

Gentlemen,—

Important labours have been

prepared for this session. Being well assured of your zeal, I have not hesitated to assemble you earlier than usual.

Two codes will be submitted to your examination. They are in-

tended to improve the laws respecting forests, and to settle the regulations of military jurisdiction. I have admitted little innovation into these works. The bases have been taken from the actual regulations of the army, and from the ordinance of my august predecessor respecting forests.

I wish that it had been possible to avoid all interference with the press ; but in proportion as the power of publishing writings has been developed, it produced fresh instances of abuse, which require to be restrained by more extensive and efficient means. It was time to put a stop to these afflicting scandals, and to preserve the liberty of the press from the danger with which it is threatened by its own excesses.

A project of law will be submitted to you for the attainment of this end.

Certain imperfections had been discovered in the organization of juries. I shall order a project of law to be proposed to you for their improvement, and for regulating the same conformably to the nature of this institution.

The penalties enacted against the slave trade proved deficient in efficacy, and their infliction was liable to be eluded. A more complete legislation became requisite. I have ordered a project, gentlemen, to be proposed to you on this subject.

I continue to receive from all foreign governments the assurance of their most friendly dispositions, which are in perfect accordance with my own wish for the maintenance of peace

Disturbances have lately broken out in some parts of the peninsula. I shall unite my efforts to those of my allies, to put an end to the same, and to obviate their consequences.

The progressive increase of the produce of indirect taxation will permit us to augment this year the funds available for the public service, by a sum equal to that of which the contributors have been exempted by the last financial enactments.

This increase will prove a real relief to my people. It will free the communes from the supplementary sums which they pay ; and the indigent classes will find abundant resources in the fresh activity and impetus given in the construction of our highways, fortresses and naval arsenals.

I have reason to hope, that the allotments which are to be made for the public service, will, for several years, suffice for all their wants, and that I may in future apply the surplus of produce to the reduction of the most burthensome taxes.

Let us return thanks to Divine Providence, gentlemen, for having placed us in circumstances so highly favourable, and let us join our efforts to augment and corroborate the same, that my people may, for a long time, reap the fruits thereof.—France will acquire a new species of greatness, by industry and tranquillity, and success in peace will prove as productive of glory, as her warlike and military virtues, should honour oblige her to display them.

**ORDINANCE ESTABLISHING CENSORSHIP.**

Seeing our ordinances of this day concerning the enforcing of the laws of the 31st March, 1820, and 26th July 1821, relative to the publication of Journals and Periodical writings,

We have ordained—

Art. 1. There shall be at Paris, in the office of our Minister of the Interior, a bureau, charged with the previous examination of all journals and periodical writings.

2. This bureau shall be composed of six Censors named by us, on the recommendation of our Minister of the Interior.

3. Every number of a journal or periodical writing must, before it is printed, be furnished with the Visa of this bureau, which shall authorize the publication of it, according to Art. 5, of the law of the 31st March, 1820.

4. The operations of this bureau shall be directed by the Sieur Lourdoux, Chief of the Division of Sciences, Fine Arts, and Belles Letters, in the department of the interior.

5. The Visa of the bureau shall be given by the Sieur Deliege, whom we appoint for this purpose, Secretary of the Bureau of Censorship.

6. The departments of the Prefects shall nominate, according as may be necessary, one or more censors, charged with the previous examination of the journals, which shall be published in them.

7. A council of nine members,

appointed by us on the recommendation of our keeper of the Seals, Minister and Secretary of State for the department of justice, shall be charged with the superintendence of the Censorship.

8. The Bureau of Censorship, at Paris, shall address once a week a report of its operations to the council of superintendence. The Censors in the departments shall send it an account once a month.

9. When there shall be reason, on execution of the law of the 31st of March, 1820, for the provisional suppression of a journal, or periodical writing it shall be pronounced by us, on the report of our Keeper of the Seals, after he shall have taken the opinion of the Council of Superintendence. The same shall be done when there shall be reason, according to Art. 7, of the said law, to pronounce the suspension or the suppression of a journal or periodical writing after judgment.

10. Our Minister the Secretary of State for the Department of the Interior, and our Keeper of the Seals, Minister of Justice, are charged each in what concerns him with the execution of the present ordinance.

Given at St. Cloud, the 24th of June, 1827, the third year of our reign.

**CHARLES.**

By the King.

The Minister Secretary of State for the Interior.

**CORBIERE.**

## SPAIN,

CIRCULAR OF THE DIRECTOR GENERAL OF THE POLICE,  
NOV. 10, 1826.

All the Intendants of Police will send to the general direction, within the precise term of a month, a list of all the persons, whatever be their age or sex, who come within the classes hereafter mentioned, namely—as being attached to the Constitutional system; as having been a national volunteer in infantry or cavalry; a member of sacred companies or battalions, reputed a free-mason; known for a communero; held for a liberal, either violent or moderate; or a purchaser of national or securitized property.

Moreover, it shall be added whether the individual was a member of the Madrid Supreme Junta of Government, a Minister, a member of any tribunal or court of Justice, a Deputy of the Cortes, of province, or secretary political chief or clerk in any other branch, member or curator of any political society, political writer, or any thing else that might give an exact idea of the real opinion that he manifested during the reign of the Constitution. There shall be set forth, moreover, the conduct that he may have observed since the fall of that system up to the present time, and the influence that he has had and may have in the Government by his fortune.

As soon as any individual of those comprehended in this list, either himself, his children, his servants, or any other persons attached to him, shall demand a passport to go out of his parish.

the authority who delivers it to him shall give notice thereof immediately to the Director General, setting forth the suspicions to which his journey may give rise, on account of the situation in which he may find himself, and of his relations with regard to the Government.

• No passports shall be granted to any one whatever of those who are noted for being attached to the Constitutional System, unless the Clerk of Police ascertains that the person requiring the passport has good grounds for travelling. In this case he shall require a certain security, and the passport of the individual noted for being attached to the Constitution, shall set forth the parishes by which he is to pass and stop, both going and coming, and this note shall serve as a hint to the authorities to watch his conduct.

The Clerk of Police who shall fail to observe what has just been prescribed, or who, in the least thing or by favour, may depart therefrom, shall be dismissed and brought to trial, and if he does not belong to the Police, I will render an account thereof to His Majesty, in order that he may receive exemplary punishment.

The Clerk of Police who shall announce an assembly of the persons above mentioned, who may occupy themselves with the affairs of the government, censure it or condemn its operations, shall receive a reward of one thousand reals, if the fact be proved. If

the assembly consists of more than six persons, and the house is of a suspicious character, even though the object of the assembly be not known, the reward shall be two thousand reals, and the clerk shall be entitled to promotion.

This Circular is to be kept among the secret papers.

Madrid, November, 10, 1826.

#### ROYAL ORDER RESPECTING COMMERCE.

Royal order, communicated to the direction general of the revenue, allowing, for a time, foreign vessels to carry on commerce with America.

The king our lord, sensible of the necessity of protecting and extending the mutual commerce carried on between America and the mother country, by means of regulations adapted to the present state of commerce and navigation, and of introducing therein a uniformity and generality productive of the facilities required by the royal treasury, and by industry and commerce, has been pleased to ordain, conformably to the report of his council of ministers, that, from this time, and until the subject shall have been more deliberately settled, the following regulations be complied with.

1st. Spaniards wishing to fit out mercantile expeditions to the American possessions, from the ports designated in the peninsula and the adjacent islands, in vessels of friendly and allied powers, shall be allowed to do so without the necessity of previously obtaining license.

2d. Foreign vessels of the above description sailing from the

ports designated in the peninsula and the adjacent islands for the American possessions, with entire cargoes of merchandise and products of the kingdoms, to return with colonial products, shall pay the duties levied on goods exported to the Indies, on the cargo; and four per cent for the privilege hereby granted to foreign vessels. Flour shall continue exempt from this charge.

3d. On arriving in a direct course, at the ports designated, without the return cargoes described in the foregoing articles, they shall pay thereon the assessed duty of free trade, (with the modifications it has undergone by virtue of the royal order of 1st February, 1825, as to coffee and sugar,) and eight per cent for the privilege granted to foreign vessels; but in case of their having touched at any foreign port, they shall pay twelve per cent for said privilege, unless it shall be satisfactorily proved that such deviation was unavoidable, and that the cargo has neither been landed or trans-shipped.

4th. Foreign vessels of the above description, sailing from the ports designated, for the American possessions, with one half, or one third at least of their cargoes consisting of merchandise and products of the kingdom, and the balance of foreign products, shall pay, 1st, the duties levied on national products destined for the Indies; 2d, two per cent transit duty on foreign products, for no other cause than their foreign origin; 3d, eight per cent for the privilege to foreign vessels.

5th. On arriving in a direct course, at the ports designated,

with return cargoes mentioned in the preceding article, they shall pay thereon the assessed duty on free trade, and ten per cent for the privilege to foreign vessels. But in case of their having touched at any foreign port, they shall pay, in addition, sixteen per cent for the privilege to foreign vessels, unless it shall be satisfactorily proved that such deviation was unavoidable and that the cargo has neither been landed or transhipped.

6th. Whenever his majesty shall think fit to repeal or alter the present dispositions, reasonable notice shall be given thereof.

7th. The regulations of free trade, the general instructions of the revenue of 1816, and the other dispositions relative to the American commerce, repugnant to the foregoing articles, are hereby suspended.

By royal order,

LUIS LOPEZ BALLESTEROS.

Palace, 9th February, 1827.

## PORTUGAL.

### PROCLAMATION.

Portuguese!

By the constitutional chart which you have just now sworn to, I have been called to the regency of these kingdoms, during the minority of my august niece, and our legitimate queen, Maria da Gloria. As the first vassal of the empire, it is my immediate duty to put into a prompt and vigorous execution the wise constitutional chart which my august brother, Don Pedro the 4th, whose glorious name resounds with admiration and deference throughout America, Europe, and the whole world—has, from his elevated throne, bestowed upon his Portuguese subjects. This immediate code I shall fulfil and cause it to be fulfilled. It is the bulwark of our political safety. Unhappy he, who dares to oppose it; the law will punish him, and I shall be as inexorable as the law itself.

Portuguese!—What I am at, is to revive our former prosperity and glory; to encourage the arts; to

improve sciences; to promote commerce, agriculture, and industry; in a word, to employ every means within my power to make happy a nation worthy of being so: is my subordinate duty—such my ambition: I grudge no other. Portuguese! if I sacrifice, as I have hitherto done, my health for the welfare of the country, be sure that I will hereafter sacrifice my own life, if it be necessary, to the good of the country. And who will be the Portuguese, worthy of the name, that would not join me in such noble sentiments?

Portuguese! let us imitate our superiors, and we shall be as they have been, the admiration of Europe, and of the whole world. Union and obedience to the laws will render us happy: and when I surrender the government of this kingdom to our legitimate sovereign, Don Maria da Gloria, I will be enabled to tell her, with truth, and with the effusions of the heartiest joy—



"Madam! you are about taking the reins to govern a nation, great, faithful and true to its legitimate sovereigns: that nation has been unfortunate, because the genius of evil has found among the Portuguese a fatal and long asylum—but the wise political institutions which your father, our late august king, has kindly given us, has consolidated the hopes of our happiness and glory. I have reared this edifice of our felicity, as much as I could, by the assistance of the nation at large; but the consummation of it is reserved for your majesty! You will find great and worthy models in the catalogues of Portuguese monarchs and queens. Read and ponder well on the history of Portugal; a wise and useful lesson it will be to your majesty; it will instruct you in the difficult art of reigning. If you but adhere to these lessons, madam, you will be hailed as the friend of the Portuguese, and the Portuguese will ever repeat with respect, love and gratitude, the name, the adored name, of your late august father, and yours.

Portuguese! Union and obedience to the laws; let us imitate the virtues of our superiors, then we shall be as they have been, subjects of admiration and respect of the whole universe.

#### INFANT REGENT.

Adjuda, Palace, 1st Aug. 1826.

#### NEW CONSTITUTION OF PORTUGAL.

The inviolability of the civil and political rights of Portuguese citizens, which has liberty, individual security and propriety, for its basis, is guaranteed by the constitution of the kingdom, in the following manner:

1. No citizen can be obliged to do, or hindered from doing, a thing, but in virtue of a law.

2. No provision of a law shall have a retrospective operation.

3. Every man may communicate his thoughts, by word, or writing, and publish them by way of the press: every one, however, will be responsible for the abuses he may commit in the exercise of this right, in the cases and forms determined by law.

4. No one can be persecuted for religious matters, if he respects the religion of the state, and does not offend public morals.

5. It is permitted to every individual to remain in the kingdom, or go out of it, as may seem good to him, taking with him his property, upon complying with the police regulations, and if it be not to the prejudice of any one.

6. The house of every citizen is an inviolable asylum; no one whatever can enter therein in the night without his consent, unless in case of a cry for succour from within, or to defend it from fire or inundation; the entrance into it by day shall not be allowed, except in the cases and manner fixed by law.

7. No one can be arrested without a complaint lodged against him, except in the cases specified by law; and in these cases, the judge, within twenty-four hours after his commitment to prison, if it be in a city, town, or village, adjacent to the residence of a judge, and in an interval proportioned to the extent of the territory, and fixed by law for the distant places, the judge shall signify to the accused person, by a note bearing his own signature, the

ground of his imprisonment, the names of the accusers, and those of the witnesses, if he knows them.

8. In like manner, in the case of arrest, no man can be committed to prison, or detained there, if he gives the bail required by law; and, in general, for all crimes which do not incur more than six months imprisonment, or banishment from the territory, the accused person shall remain at liberty.

9. Except when taken in the act, persons cannot be imprisoned, except by a written order from the competent authorities; if this order be arbitrary, the judge who gave it, and the person who required it, shall be punished as the law directs; in what is fixed, relative to imprisonment before a complaint is made, are not included military ordinances, these being necessary for the discipline and recruiting of the army, nor the cases which are not absolutely criminal, and in which the law, nevertheless, decides the imprisonment of a person for having disobeyed the orders of justice, or for not having fulfilled their obligations within the time prescribed.

10. No one shall be condemned but by the competent authority, in pursuance of an anterior law, and in the form by it prescribed.

11. The independence of the judicial power shall be maintained: no authority can bring before a higher court any pending causes, stop them, or re-commence terminated proceedings.

12. The law shall be equal for all, whether it protects or punishes, and shall recompense according to the merits of each.

13. Every citizen is equally admissible to civil, political, and military posts, without any other dif-

ference or consideration than that of talents and virtues.

14. No one shall be exempt from contributing to the burdens of the state in proportion to his means.

15. All privileges which are not essential and closely connected with offices for the public utility, are henceforward abolished.

16. With the exception of causes, which, from their nature, appertain to special judges, in conformity to law, there shall be no privileged tribunal nor special commission for civil or criminal causes.

17. A civil and criminal code, founded upon the solid basis of justice and equity, shall be drawn up as early as possible.

18. From this day, whipping, torture, branding, and all other barbarous punishments, are abolished.

19. No penalty shall ever extend beyond the guilty person: thus, there cannot exist any confiscation of goods, and never shall the infamy of a guilty person be transmitted to his relations, whatever may be their degree.

20. The prisons shall be secure, clean and airy, with different divisions, to separate guilty persons, according to the circumstances and the nature of their crimes.

21. The right of property is guaranteed in its utmost plenitude.

22. The national debt is likewise guaranteed.

23. No kind of labour, culture, manufactory, or commerce, can be prohibited, whenever it is not opposed either to public customs, or the security and health of citizens.

24. Inventors shall have the property of their discoveries or production: a law shall secure to

them a temporary exclusive privilege, or recompense them for the loss which the publication of the discovery may cause them to suffer.

25. The secrecy of letters is inviolable: the administration of the post-office is rigorously responsible for every infraction of this article.

26. All the rewards bestowed for services rendered to the state, in the civil and military professions, are guaranteed, as well as the right attached to these rewards in conformity to law.

27. Public functionaries are strictly responsible for the abuses and omissions which they commit in the exercise of their functions, and in no case can they throw the responsibility upon those under them.

28. Every citizen may address representations, complaints, or petitions, to the legislative or executive power, and even set forth all the infractions of the constitution demanding of the competent authority the effective responsibility of the guilty persons.

29. The constitution likewise guarantees public succour.

30. Primary instruction is gratuitous for all the citizens.

31. The constitution guarantees hereditary nobility and the prerogatives.

32. As also the colleges and universities, where the elements of the sciences, belles-lettres, and the arts, are taught.

33. The constitutional powers can never suspend the constitution; nor attack individual rights, except in the cases and circumstances specified in the following article.

34. In case of rebellion or hostile invasion, the safety of the state requiring that, for a determinate time, some of the formalities which guaranty individual liberty should be dispensed with, provision relative thereto may be made by a special act of the legislative power; but if the cortes cannot be assembled in time, and the country be in imminent danger, the government may exercise this measure as a temporary and indispensable remedy, by suspending the ordinary course of the laws, according to the urgent necessity requiring it; but it shall re-establish things as soon as the urgent necessity upon which the contrary was grounded, is at an end. In either case, however, it must lay before the cortes, as soon as they meet, an account of the imprisonment and other means of precaution which it has taken, with the grounds thereof; and all the authorities who shall have the execution of these measures shall be responsible for the abuses committed relative thereto.

The 4th title defines the legislative power which is to belong to the cortes with the approbation of the king. The cortes is to consist of two chambers—peers and deputies. The powers of the cortes are.

It is the prerogative of the cortes—

1st. To receive the oath of the king, the prince royal, and the regents.

2d. To elect the regent or regency, and mark the limits of their authority.

3d. To recognise the prince royal as heir to the throne, in the first session after his birth.

4th. To appoint a tutor for a king in his minority, in case his father should not have appointed one in his testament.

5th. At the king's death, or during an interregnum, to establish a council of administration, to seek out and reform any abuse that may have crept in.

6th. To make laws, to interpret them, and to suspend or revoke them.

7th. To watch over the constitution and the general welfare of the nation.

8th. To fix annually the public expenses, and appropriate the direct taxes.

9th. To allow or forbid the entrance of foreign troops or ships of war into the interior of the kingdom or ports.

10th. To fix annually, according to the report of government, the land and sea forces, ordinary and extraordinary.

11th. To authorize the government to contract loans.

12th. To produce and establish proper resources, for the payment of the public debt.

13th. To regulate the administrations of the public domains, and decree their alienation.

14th. To create or suppress public employment, and fix their emoluments.

15th. To determine the weight, fineness, worth, inscription, type, and denomination of money, as well as the standard of weights and measures.

The opening of the session is fixed for the 2d of January. The privileges of the peers somewhat resemble those of the British house of lords, particularly in their

powers of being judges of impeachments. The deputies are obviously modelled from the commons. They have adopted, however, a custom which provides that the deputies shall be paid for their attendance, and for their travelling expenses. The mode of election is in the French fashion. The citizens in general vote for electors, who appoint the representatives. The exclusions from the right of voting are as follows :

1st. Minors under five and twenty years of age, among which are not comprised those that are married, or military officers who are of age at one and twenty, licensed bachelors, and ecclesiastics in holy orders.

2d. Sons who live with their fathers, unless they hold a public situation.

3d. Servants at service, in which class the book-keepers and head clerk in mercantile houses, the servants of the royal household who do not wear the white sash, and the foremen of agricultural or manufacturing establishments.

4th. The priests and all persons living in convents.

5th. Every person who does not possess a nett annual income of 100,000 reals (24*l.*) arising from his funds, labour, commerce, or employment.

The number of representatives is not yet decided on. It is to be regulated by a special law.

The fifth title has already appeared. The system of juries is formally adopted, and judges are rendered irremovable at the will of the crown.

## RUSSIA.

## TREATY BETWEEN RUSSIA AND TURKEY.

## I.

*Convention explanatory of the Treaty of Bucharest.*

In the name of the Almighty God.—The Imperial Court of St. Petersburg, and the Sublime Porte, animated by a sincere desire to bring to a close the discussions which have arisen between them since the conclusion of the Treaty of Bucharest, and wishing to consolidate the relations of the two Empires, and give to them a basis of perfect harmony and entire reciprocal confidence, have concurred in opening, by means of a meeting of their respective Plenipotentiaries, an amicable negotiation, to discard from their mutual relations all subjects of ulterior difference, and to ensure, for the future, the full execution of the treaty of Bucharest, as well as those treaties and acts which they shall renew and confirm, and the observation of which can alone guaranty the maintenance and durability of the peace so happily established between the Imperial Court of Russia, and the Sublime Ottoman Porte. In consequence, His Majesty the Emperor and *Padisshah* of all the Russias, and His Majesty the Emperor and *Padisshah* of the Ottomans, have named for their Plenipotentiaries, to wit: His Majesty the Emperor and *Padisshah* of all the Russias, the Count Michel Woronzoff, Aid-de-camp General, General of Infantry, member of the Council of the Empire, Governor General of New Russia, and Commissioner

Plenipotentiary of the Province of Bessarabia, Chevalier of the order of St. Alexander Nevsky, Chevalier of the Grand Cross of the Order of St. George of the 2d class, of St. Vladimir of the 1st class, of St. Anne of the 1st class, enriched with diamonds, and Chevalier of several Foreign Orders; and Alexander Ribeaupierre, Privy Counsellor, and Actual Chamberlain, Envoy Extraordinary and Minister Plenipotentiary to the Sublime Porte, and Chevalier of the Cross of the Order of St. Anne of the 1st class enriched with diamonds, Chevalier of the Grand Cross of the Order of St. Vladimir of the 2d class, and also of that of Leopold of Austria of the 1st class. And his Highness, the Honourable Seid-Mehemed-Hadi-Effendi, Comptroller General of Anatolia, First Plenipotentiary, and Seid-Ibrahim-Isfet-Effendi, Provisional Cadi of Sophia, with the rank of Molla of Scutari, Second Plenipotentiary: who after having met at the town of Ackerman, and having exchanged certified copies of their full powers, found in good and due form, have decreed, concluded, and signed the following articles:

ART. 1. All the clauses and stipulations of the Treaty of Peace, concluded at Bucharest, on the 16th of May, 1812, (17th day of the Moon of Djemazeiul-ewel, of the 1227th year of the Hegira,) are confirmed in all their force and value, by the present Convention, as if the treaty of Bucharest

was here found inserted, word for word, the *eclaircissement* of which forms the object of the present Convention, being but to serve for the determination of the precise sense, and to corroborate the tenor of the said treaty.

ART. 2. The 4th article of the treaty of Bucharest, having stipulated for the great islands of the Danube, situated opposite to Ismail and Kili, that they, while remaining the property of the Ottoman Porte, should be in part desert and uninhabited, a mode of limitation, the execution of which has been found impossible, from the inconveniences which arise from the frequent overflowing of the stream, and experience having also demonstrated the necessity of establishing a fixed and sufficiently marked separation between the inhabitants of the respective banks; in order to remove all points of contact, and to put an end by the same, to the continual differences and troubles which have existed, the Sublime Ottoman Porte, wishing to give to the Imperial Court of St. Petersburg, an unequivocal proof of its sincere desire to cement the relations of friendship and good neighbourhood between the two States, engages to execute and to maintain the arrangement entered into on that subject, at Constantinople, between the Russian Envoy and the Ministers of the Sublime Porte, in the conference held on the 21st August, 1817, conformable to the dispositions agreed to in the protocol of that conference. In consequence, the dispositions declared in that protocol, and relative to the object in question, shall be considered as making an integral part of the present convention.

ART. 3. The treaties and acts relative to the privileges to be enjoyed by Moldavia and Wallachia, having been confirmed by an express clause of the 5th article of the treaty of Bucharest, the Sublime Porte solemnly engages itself to observe the said privileges, treaties, and acts, on all occasions, with the most scrupulous fidelity, and promises to renew, in the space of six months after the ratification of the present Convention, the *Hatti-Cherifs* of 1802, which specified and guaranteed the same privileges. Further, in relation to the evils which have been suffered by these provinces in consequence of late events in relation to the choice of Wallachian and Moldavian Boyars to be Hospodars of the two Principalities, and seeing that the Imperial Court of Russia has given its assent to that measure, it has been recognized, as well by the Sublime Porte, as by the Court of Russia, that the *Hatti-Cherifs*, above mentioned, of the year, 1802, ought indispenibly to be completed, by means of the clauses in the separate act hereto annexed, which has been agreed to between the respective Plenipotentiaries, and which is, and is to be, considered as an integral part of the present Convention.

ART. 4. It being stipulated by the 6th article of the treaty of Bucharest, that the frontier between the two Empires, on the coast of Asia, shall be re-established as it was formerly, before the war, and that the Imperial Court of Russia shall restore to the Sublime Ottoman Porte, the fortresses and castles situated in the interior of that frontier, and conquered by their arms. In con-

sequence of that stipulation, and seeing that the Imperial Court of Russia had evacuated and restored, immediately after the peace, such of those fortresses as had been taken during the war, solely from the troops of the Sublime Porte, it is covenanted, on one part and on the other, that, hereafter, the frontiers between the two Empires shall remain such as they exist at the present day, and that a term of two years is fixed, in order to advise reciprocally upon the most proper means to maintain the tranquillity and security of the respective subjects.

ART. 5. The Sublime Ottoman Porte, desiring to give to the Imperial Court of Russia a striking testimony of its amicable dispositions, and of its scrupulous intentions to fulfil entirely, the conditions of the treaty of Bucharest, will put in immediate execution all the clauses of the 8th article of the treaty relative to the Servian nation, which being *ab antiquo*, subject and tributary to the Sublime Porte, should, on all occasions, experience the effects of its clemency and generosity. In consequence, the Sublime Porte will regulate with the deputies of the Servian nation, those measures which shall be judged the most effectual, to assure to it the advantages stipulated in its favour; advantages, the enjoyment of which will be at the same time the just recompense, and the best pledge for the fidelity of which that nation has given proofs to the Ottoman Empire. As a term of eighteen months is considered necessary to complete the verifications which that subject demands, conformably

to the separate act hereunto joined, it is agreed between their respective Plenipotentiaries, that the said measures shall be regulated and decreed, in concert with the Servian Deputation at Constantinople, and set forth in detail, in a supreme firman, restorative of the Hatti-Cherif, which shall be put in force with the least possible delay, and at the latest, in the above mentioned term of eighteen months, and shall also be communicated to the Imperial Court of Russia, and considered as an integral part of the present Convention.

ART. 6. In virtue of the express stipulations of the 10th article of the treaty of Bucharest, in relation to all the affairs and claims of the respective subjects, which had been suspended by the events of the war, not having been renewed and terminated; also the credits which the respective subjects might have had the one against the other, as well as against the Treasury, not having been examined and regulated according to justice, and promptly and entirely liquidated, it is agreed that all the affairs and claims of Russian subjects, arising out of losses sustained by them by the depredations of pirates, the confiscations made at the moment of the rupture between the two courts in 1806, and other acts of the same nature, comprising those which have taken place since the year 1821, shall give place to an equitable liquidation and indemnification. To that effect, there shall be named without delay, on the part of both courts, Commissioners to verify the nature and extent of the losses, and fix upon the

amount of indemnification. All the labours of the Commissioners shall terminate, and the sum at which the indemnifications above mentioned shall have been estimated, shall be remitted, in gross, to the Imperial Legation of Russia at Constantinople, within the term of eighteen months from the date of the ratification of the present Convention. There shall also be observed an equal reciprocity towards the subjects of the Sublime Porte

ART. 7. The reparation of damages caused to the subjects and merchants of the Imperial Court of Russia, by the corsairs of the regencies of Algiers, Tunis, and Tripoli; and the full and entire execution of the stipulations of the treaty of commerce and of the 7th article of the treaty of Jassy, being strictly obligatory upon the Sublime Porte, in virtue of the express clauses of the 12th article of the treaty of Bucharest, which, conjointly with the 3d article, renew and confirm all the anterior transactions—the Sublime Porte solemnly reiterates the promise to fulfil hereafter, with the most scrupulous fidelity, all its engagements in that respect. In consequence:

1st. The Sublime Porte will use all its endeavours to prevent the corsairs of the Regencies of Barbary, under any pretext whatever, from disturbing the commerce or the navigation of Russia; and in case of depredations on their part, of which the Porte shall have been informed, it engages to cause restitution to be made without delay, of all the prizes made by the said corsairs, to indemnify the Russian subjects for the losses they may have sustained; to address for

that purpose a rigorous firman to the Regencies of Barbary, in a manner that will not render it necessary to repeat it a second time; and, in case the said firman should not have been executed, to pay the amount of the indemnity from the Imperial treasure, within the term of two months, as specified in the 7th article of the Treaty of Jassy, from the day of the reclamation which shall have been made of the property, by the Russian Minister, with the verification which shall have been taken.

2d. The Sublime Porte promises to observe rigorously, all the conditions of the said Treaty of Commerce, to remove all the prohibitions contrary to the express tenor of its stipulations, to place no other shackles upon the free navigation of vessels under the Russian flag, in all the seas and waters of the Ottoman Empire, without any exception. In a word, to permit the merchants, captains, and all the subjects of Russia in general, to enjoy the advantages and prerogatives, as well as the entire liberty of commerce, which are formally stipulated by the treaties existing between the two Empires.

3d. Conformably to the 1st article of the Treaty of Commerce, which stipulates in favour of all the subjects of Russia in general, the liberty of navigation and commerce in all the States of the Sublime Porte, either by land or sea, and above all, where navigation and commerce may be convenient to Russian subjects; and in virtue of the clauses of the 31st and 35th articles of the said treaty, which assure the free passage, by the canal of Constantinople, of Rus-



sian merchant ships, loaded with provisions and other merchandises and productions of Russia, or of other countries not subject to the Ottoman Empire, as well as the free disposition of their provisions, merchandises and productions, the Sublime Porte promises to oppose no obstacle nor prevention to Russian vessels, laden with wheat or other provisions, at their arrival in the canal of Constantinople, where they may re-ship their cargoes into other vessels whether Russian, or those of other foreign nations; to be transported out of the States of the Sublime Porte.

4th. The Sublime Porte accepts the good offices of the Imperial Court of Russia for the purpose of according, after former examples, the entry of the Black Sea to the vessels of Powers friendly to the Ottoman Government, who have not yet obtained that privilege, in such a manner that the Russian commerce of importation may not, by the means of those vessels, and their exportation of Russian products, suffer any injury.

ART. 8. The present Convention, serving for the eclaireissement and completion of the treaty of Bucharest, to be ratified by His Majesty the Emperor and Padischah of all the Russias, and by His Majesty the Emperor and Padischah of the Ottomans, by means of solemn ratifications, attested by their proper signatures, according to usage, which shall be exchanged by the respective Plenipotentiaries, within the term of four weeks, or sooner if possible, counting from the day of the conclusion of the present Convention.

Done at Ackerman, the 25th September, 1826.

[This Convention has been ratified by His Majesty the Emperor.]

## II.

### *Separate Act relative to the Principalities of Moldavia and Wallachia.*

In the name of Almighty God —The Hospodars of Moldavia and Wallachia being chosen from among the native Boyars, their election shall hereafter be made, in each of these Provinces, according to the consent and approbation of the Sublime Porte, by the General Assembly of the Divan, conformably to the ancient usages of the country.

The Boyars of the Divan of each province, as representatives of the country, and with the general accord of the inhabitants shall make choice for the office of Hospodar, or one of the Boyars, most ancient and most capable to sustain the charge, and present to the Sublime Porte, by a *petition* (Arz. Mabsar) the elected candidate, who, should the election be agreed to by the Sublime Porte, shall be named Hospodar, and receive his investiture. If, from grave reasons, the nomination of the elected candidate shall be found not to conform with the desires of the Sublime Porte, in that case, after those grave reasons shall have been proved by the two Courts, it shall be permitted to recommend to the Boyars to proceed to the election of another competent person.

The term of the Administration of the Hospodars shall remain for ever fixed, as formerly, at seven years, complete and entire, dating from the day of their nomination; and they cannot be deposed before the end of that term: If, during

the course of their administration, they commit any act of delinquency, the Sublime Porte shall inform the Minister of Russia, when, after verification made by both parties, it shall be established that the Hospodar has actually been guilty of any crime, his deposition shall be permitted; and in this case only.

The Hospodars who shall have served their term of seven years without having given, either to the two courts, or to the country, any legitimate or serious subject of complaint, may be named anew for seven additional years, if the demand shall be made to the Sublime Porte, by the Divans of the provinces, and if the consent of the inhabitants shall have been manifested in their favour.

If it should happen that one of the Hospodars should abdicate before the close of the period of seven years, in consequence of age, sickness, or any other reason, the Sublime Porte shall give notice to the Court of Russia, and the abdication may take place by a previous agreement of the two courts.

All Hospodars, who shall have been deposed after having finished their term, or who shall have abdicated, shall incur the loss of their title, and may re-enter the class of Boyars, on condition of remaining peaceable and tranquil, but without power, either again to become members of the Divan, or to fill any public function, and without power to be re-elected Hospodars.

The sons of the deposed or abdicated Hospodars may reserve the quality of Boyars, may occupy the offices of the country, and be elected Hospodars.

In case of the deposition, abdi-

cation, or death of a Hospodar, up to the time when a successor shall be appointed, the administration of the vacant principality may be confided to the Caimacams, named by the Divan of the said principality.

The Hatti-Cherif of 1802, having ordained the abolition of the imposts, rents, and requisitions, introduced subsequent to the year 1198 (1783,) the respective Hospodars, shall determine and fix the imposts and the annual charges of Moldavia and Wallachia, taking for their basis the regulations which have been established in the Hatti-Cherif of 1802. The Hospodars shall, in no case, be allowed to alter the strict accomplishment of that disposition. They shall have regard to the representations of the Minister of his Imperial Majesty, and to those which the Consuls of Russia may address to them, as well upon that subject, as upon the maintenance of the privileges of the country, and specially upon the observation of the clauses and articles inserted in the present act.

The Hospodars, in concert with the respective Divans, shall fix in each province the number of Bechlis according to that which existed before the troubles of 1821: That number once fixed, may not be augmented under any pretext, short of an urgent necessity, recognized by both parties. It is, also, agreed, that the Bechlis shall continue to be formed and organized as they were before the troubles of 1801; that their Agas shall continue to be chosen and appointed according to the mode followed previous to that epoch; and, finally, that the Bechlis and their Agas shall never be allowed

to fill any other functions than those for which they were originally instituted, without power to mix with the affairs of the country, or permission to perform any other action.

The usurpations committed upon the territories of Moldavia and Wallachia, on the coast of Ibrail, Ghierghiova, and Coule, and beyond the Olta, shall be restored to the proprietors; and there shall be fixed for the said restitution a term in the firmans relative thereto, which shall be addressed to those whom it may concern.

Those of the Boyars of Moldavia and Wallachia, who, solely in consequence of the late troubles, were forced to quit their country, are permitted freely to return, without being in any manner inquieted, and to enter into the full and entire enjoyment of their rights, prerogatives, goods, and properties, as formerly.

The Sublime Porte, in regard to the evils which have weighed upon Moldavia and Wallachia, in consequence of the late troubles, grants to them an exemption for two years, from the tributes and rents due to the Government. At the expiration of the term of the above mentioned exemption, the said tributes and rents shall be acquitted by a tax fixed by the Hatti-Cherif of 1802, and which cannot be augmented in any case whatever. The Sublime Porte accords equally to the inhabitants of the two principalities, the liberty of commerce in all the productions of their soil and of their industry, of which they may dispose in such manner as may appear good to themselves, save the restrictions exacted on one part by the remittances due annually to the Sublime

Porte, of which these provinces are the granaries; and on the other by the supply of the country. All the dispositions of the Hatti-Cherif of 1802, relative to these remittances, to their regular acquittance at the current price according to which they shall be paid, and the fixation of which shall appertain to the respective Divans—shall be reinstated in full force, and observed for the future with scrupulous exactness.

The Boyars shall be bound to execute the orders of the Hospodars, and to act toward them within the bounds of perfect submission. On their part, the Hospodars are not permitted to act in an arbitrary manner towards the Boyars, nor to subject them to unmerited punishments, or unless they have committed some fault which shall have been proved. And, in the latter case, they shall not be subjected to the penalties until after having been judged conformably to the laws and usages of the country.

The troubles which have taken place in late years in Moldavia and Wallachia, having been productive of the most grave injury to order, in the divers branches of the internal administration, the Hospodars are enjoined to occupy themselves without the least delay, with their respective Divans, in taking measures necessary to ameliorate the situation of the principalities confided to their care; and these measures shall have for their object a general regulation for each province, which shall be put in immediate execution.

All other rights and privileges of the principalities of Moldavia and Wallachia, and all the Hatti-Cherifs, which concern them, shall

be maintained and observed, so far as they are not modified by the present act.

To this effect, we the undersigned, Plenipotentiaries of his Majesty the Emperor and Padischah of all the Russias, invested with full and sovereign power, in concert with the Plenipotentiaries of the Sublime Ottoman Porte, have decreed and regulated the points above enumerated, which are the consequences of the third article of the Treaty of Bucharest, concluded in eight articles, in the conferences at Ackerman, between us and the Ottoman Plenipotentiaries.

In consequence, the present separate Act has been revised, attested by our seals and signatures, and delivered into the hands of the Plenipotentiaries of the Sublime Porte.

Done at Ackerman, on the 25th Sept. 1826.

COUNT M. WORONZOW, (L. S.)  
RIBEAUPIERRE. (L. S.)

### III.

#### *Separate Act relative to Servia.*

In the name of Almighty God.—The Sublime Porte, with the sole intention to fulfil faithfully the stipulations of the eighth article of the Treaty of Bucharest, having heretofore permitted the Servian Deputies at Constantinople to present to it the demands of their nation, upon the most expedient measures for the establishment of the safety and well-being of their country, those deputies having expressed in their petitions the views of the People relative to several of those objects, such as the liberty of worship, the choice of their chiefs, the re-union of the districts detached from Servia, the change

of various imposts into one only, the abandonment to the Servians of the administration over property belonging to Mussulmen, the payment of the revenue, together with the tribute, the liberty of commerce, the permission to Servian merchants to trade in the Ottoman States, with their proper passports, the establishment of hospitals, schools, and printing-offices, and finally, the prohibition to Mussulmen, other than those appertaining to the garrisons, to establish themselves in Servia: In the meanwhile, although occupied in verifying and regulating the articles above mentioned, certain difficulties have occurred to produce their adjournment; but the Sublime Porte, persisting at the present time, in the firm resolution to grant to the Servian nation the advantages stipulated in the eighth article of the Treaty of Bucharest, will regulate in concert with the Servian Deputies at Constantinople, the demands above mentioned, of that faithful and submissive nation, as well as all others which it may present through the Servian deputies, and which shall not be contrary to the qualities of subjects of the Ottoman Empire.

The Sublime Porte will inform the Imperial Court of Russia of the execution of the eighth article of the Treaty of Bucharest, and also communicate the firman, accompanied by the Hatti-Cherif, by which the above mentioned advantages shall be accorded.

We the undersigned, Plenipotentiaries of his Majesty the Emperor and Padischah of all the Russias, invested with full and sovereign powers, in concert with the Plenipotentiaries of the Sublime Ottoman Porte, have de-

creed and regulated, in regard to the Servians, the points here mentioned, which are provided for by the fifth article of the Convention, explanatory and confirming the Treaty of Bucharest, concluded in eight articles, in the conferences of Ackerman, between us and the Plenipotentiaries of the Ottomans.

In consequence, the present separate act has been revised, attested by our seals and signatures, and delivered into the hands of the Plenipotentiaries of the Sublime Porte.

Done at Ackerman, the 25th Sept. 1826.

C. M. WORONZOW, (L. S.)  
RIBEAUFIERRE. (L. S.)

#### TREATY FOR THE SETTLEMENT OF GREECE.

In the name of the most Holy and undivided Trinity.—His Majesty the King of the United Kingdom of Great Britain and Ireland, his Majesty the King of France and Navarre, and his Majesty the Emperor of all the Russias, penetrated with the necessity of putting an end to the sanguinary contest which by delivering up the Greek provinces and the isles of the Archipelago to all the disorders of anarchy, produces daily fresh impediments to the commerce of the European States, and gives occasion to piracies which not only expose the subjects of the high contracting parties to considerable losses, but besides render necessary burdensome measures of protection and repression; his Majesty the King of the United Kingdom of Great Britain and Ireland, and his Majesty the King of France and Navarre, having besides received, on the part of the

Greeks, a pressing request to interpose their mediation with the Ottoman Porte, and being, as well as his Majesty the Emperor of all the Russias, animated by the desire of stopping the effusion of blood, and of arresting the evils of all kinds which might arise from the continuance of such a state of things, have resolved to unite their efforts, and to regulate the operations thereof by a formal Treaty, with the view of re-establishing peace between the contending parties by means of an arrangement which is called for as much by humanity as by the interest of the repose of Europe.

Wherefore they have nominated their Plenipotentiaries to discuss, agree upon, and sign the said Treaty—

Who, after having communicated their full powers, and found the same in good and due form, agreed upon the following articles:—

ART. 1. The contracting powers will offer to the Ottoman Porte their mediation, with the view of bringing about a reconciliation between it and the Greeks.

This offer of mediation shall be made to this power immediately after the ratification of the treaty, by means of a collective declaration signed by the Plenipotentiaries of the allied Courts at Constantinople; and there shall be made at the same time, to the two contending parties, a demand of an immediate armistice between them, as a preliminary condition indispensable to the opening of any negotiation.

ART. 2. The arrangement to be proposed to the Ottoman Porte, shall rest on the following ba-

ses :—The Greeks shall hold of the Sultan as of a \*superior lord ; and in consequence of this superiority, they shall pay to the Ottoman Empire an annual tribute (*relief*.) the amount of which shall be fixed once for all, by a common agreement. They shall be governed by the authorities whom they shall themselves choose and nominate, but in the nomination of whom the Porte shall have a determined voice.

To bring about a complete separation between the individuals of the two nations, and to prevent the collisions which are the inevitable consequence of so long a struggle, the Greeks shall enter upon the possession of the Turkish property situated either on the continent or in the isles of Greece, on the condition of indemnifying the former proprietors, either by the payment of an annual sum, to be added to the tribute which is to be paid to the Porte, or by some other transaction of the same nature.

ART. 3. The details of this arrangement, as well as the limits of the territory on the continent, and the designation of the islands of the Archipelago to which it shall be applicable, shall be settled in a subsequent negotiation between the high powers and the two contending parties.

ART. 4. The contracting powers engage to follow up the salutary work of the pacification of Greece on the bases laid down in the preceding articles, and to furnish without the least delay their representatives at Constantinople

with all the instructions which are necessary for the execution of the treaty now signed.

ART. 5. The contracting powers will not seek in these arrangements any augmentation of territory, any exclusive influence, any commercial advantage for their subjects, which the subjects of any other nation may not equally obtain.

ART. 6. The arrangements of reconciliation and peace, which shall be definitively agreed upon between the contending parties, shall be guaranteed by such of the signing powers as shall judge it useful or possible to contract the obligation : the mode of the effects of this guarantee shall become the object of subsequent stipulations between the high powers.

ART. 7. The present Treaty shall be ratified, and the ratifications shall be exchanged in two months, or sooner if possible.

In faith whereof, the respective Plenipotentiaries have signed, and sealed it with their arms.

Done at London, July, 6, 1827.

DUDLEY,  
POLIGNAC.  
LIEVEN.

*Additional and secret Article.*

In case that the Ottoman Porte does not accept, within the space of one month, the mediation which shall be proposed, the high contracting parties agree upon the following measure :—

1. It shall be declared, by their representatives at Constantinople to the Porte, that the inconveniences and evils pointed out in the public treaty as inseparable from the state of things subsisting in the East for the last six years, and

\* Suzerain is the term used, it belongs to the feudal law, and signifies Lord Paramount.

the termination of which, through the means at the disposal of the Sublime Porte, appears still remote, impose upon the high contracting parties the necessity of taking immediate measures for an approximation with the Greeks.

It is to be understood that this approximation shall be brought about by establishing commercial relations with the Greeks, by sending to them for that purpose, and receiving from them, Consular agents, so long as there shall exist among them authorities, capable of maintaining such relations.

2. If within the said term of one month, the Porte do not accept the armistice proposed in the first article of the public treaty, or if the Greeks refuse to execute it, the high contracting powers shall declare to that one of the two contending parties which shall wish to continue hostilities, or to both if such become necessary, that the said high contracting powers intend to exert all the means which circumstances may suggest to their prudence to obtain the immediate effect of the armistice, the execution of which they desire, by preventing, in as far as may be in their power, all collision between the contending parties, and, in fact, immediately after the aforesaid declaration, the high contracting powers will conjointly employ all their means in the accomplishment of the object thereof, without, however, taking any part in the hostilities between the two contending parties.

In consequence, the high contracting powers will, immediately after the signature of the present additional and secret article, transmit eventual instructions conformable to the provisions above set forth, to the admirals commanding their squadron in the seas of the Levant.

3. Finally, if, contrary to all expectation, these measures do not yet suffice to induce the adoption by the Ottoman Porte of the propositions made by the high contracting powers, or if, on the other hand, the Greeks renounce the conditions stipulated in their favour in the treaty of this day, the high contracting powers will, nevertheless, continue to prosecute the work of pacification on the bases agreed upon between them; and, in consequence they authorize from this time forward their representatives in London to discuss and determinate the ulterior measures to which it may become necessary to resort.

The present additional and secret article shall have the same force and value as if it had been inserted, word for word, in the treaty of this day. It shall be ratified, and the ratifications thereof shall be exchanged, at the same time as those of the said Treaty.

In faith whereof, the respective Plenipotentiaries have signed it, and have thereto affixed the seals of their arms.

Done at London, this 6th day of July, in the year of Grace 1827.

DUDLEY,  
POLIGNAC,  
LIEVEN.

# TRIALS AND LAW PROCEEDINGS.

ERASTUS ROOT VS. CHARLES KING AND JOHNSTON VERPLANCK.

THIS was an action upon the case for an alleged libel published by the defendants, on the twenty-fifth of August, eighteen hundred and twenty-four, in a newspaper called the "New-York American," of which they were the editors, and as it materially concerns the freedom of the press, we shall insert the proceedings at length.

The publication complained of was as follows, viz. :

*"Lieutenant Governor Root.—* It has been denied, we understand, by the Argus, (for having been unavoidably absent for some time, we have not seen that paper) in answer to some strictures on the subject in an Albany paper, that on the afternoon of his famous decision of order, Mr. Root was intoxicated, and the charge is treated as calumnious. Of the assurance, of the audacity of the Argus, in suppressing truth and inventing falsehood, we have had too many proofs to be surprized that in this instance it has followed its natural bias : but we are surprized that common policy which would prevent a Munchausen himself from asserting what hundreds of witnesses on the spot stood ready to disprove, had not, on this occasion, restrained their erring nature. •

"The facts are shortly these : We speak only what we saw, and as it is a matter of some public concern, that the presiding officer of our Senate should not continue to be what Mr. Root is, we speak without hesitation or reserve.

"The house of Assembly having sent to the Senate the resolution declaring the expediency of passing, at the then session, an Electoral Law, it was anticipated that some interesting proceedings would, in consequence, be had in that body. Accordingly, when it met at five o'clock in the afternoon, to which hour it had in the forenoon, previously to the passage of the resolution in the Assembly, adjourned, a great concourse of citizens, and of strangers, from all parts of our country, crowded its floor, lobbies and gallery. When the Lieutenant Governor, at the hour named, advanced through the centre of the apartment towards his chair, there was in his appearance, manner, and walk, something that excited everyone's observation. He reached his station, however, and calling the members to order, informed them that there was a message from the Assembly, which the clerk then read. A dead silence ensued. Lieutenant Governor Root, holding on to each arm of



his chair, looked round with inflamed face, with blood-shot eyes, and half open mouth, and with an expression altogether so stolid and drunken, as in any other situation, and under other circumstances, could not have failed to excite the derision of all present.

“ He was evidently expecting some motion previously concerted, probably in order to enable him to pour forth the diatribe with which he was labouring ; but none such was made, and he therefore was compelled to remark, ‘ the chair has no observations to offer unless some motion be proposed.’ —Thereupon, it was moved by Mr. Burt, we believe, at any rate by some one opposed to the faction, ‘ that the Senate concur in the resolution sent from the Assembly.’

“ This furnished the spark to the combustibles smouldering in the breast of the Lieutenant Governor ; instantly he essayed to rise, and by the all-important aid of the arms of his chair and his desk in front, he did rise and stood for a moment, as if in preparation, silent before several hundred of his fellow-citizens, an object, from his appearance and manner, we will venture to say, of loathing and disgust to every unprejudiced man among them—unwashed, unshaven, haggard, the tobacco juice trickling from the corners of his mouth to be wiped away with his coat sleeve—with unsteady footing, this second officer of the great State of New-York, commenced his address to the Senate. It is known that the presiding officer of this body has no other than a casting vote, and no right at all to speak. He may, how-

ever, assign reasons for any decision he makes, and under this shallow pretext, Mr. Root uttered a long and laboured vindication, not only of the course he was about to take in declaring the motion for concurrence out of order ; but of the whole course of proceedings of the Senate ; and then launched forth into a regular philippic against the Governor and Assembly, whom he charged with vying with each other in the race of popularity. It was the harangue of an intemperate demagogue blind with passion and rum. As such it was heard by all impartial men : and our only astonishment was, that the respectable members of the Senate could sit still and permit their presiding officer thus to disgrace himself and them. He should have been called to order and compelled to sit down. He was doing what he had no more right to do than any grovelling sot from the public kennel. He was out of order in presuming to address the Senate at all ; but to address them in his then state, and in the terms he did, was outraging all order, decency and forbearance.

“ It grieves us to be obliged to add, that the decision made by this man, in this condition, was, on appeal, ratified by nineteen members of the Senate, among whom were such men as E. P. Livingston, A. Bronson, J. Leferts—men of honour, of character, of property, and of education. It is lamentable to think that such men should, through the spirit of party, have been induced to adopt such a course. That the mere ‘cattle’ of faction, the Wheelers, the Stranahans, and their fellows,

should bow in acquiescence to whatsoever their belching idol might dictate, does not astonish nor pain us; but that such individuals as those mentioned above, should follow in the same blind path, did, we confess, excite both our astonishment and our regret. Well, indeed, has General Jackson denominated 'party spirit a monster,' if such be its necessary fruits."

Before issue was joined in this cause, a motion was made on behalf of the defendants in the Supreme Court, to change the venue from the county of Delaware to the county of New-York or Albany, and the defendants stated there were ten material witnesses residing in the former county, whose testimony was necessary for their defence, and a greater number in the latter county; but the court retained the venue in Delaware, upon the affidavit of the plaintiff, that he had more than ten material witnesses in Delaware, although he could not tell their names.

The cause came on to be tried before Judge Betts, at the Delaware circuit, on the thirteenth of June, eighteen hundred and twenty-six. The publication of the alleged libel was admitted by the defendants to have been made by them.

The defendants then offered, under the plea of general issue, accompanied with a notice of special matter in justification and excuse,

Henry Wheaton, Esquire, who stated that he was a member of the Assembly in the year eighteen hundred and twenty-four, and that hearing on the afternoon of the

fifth of August, eighteen hundred and twenty-four, that the plaintiff was speaking in the Senate, he went into the Senate chamber to hear him. Upon the witness' entrance, he found the room much crowded, and the plaintiff was then speaking. He was delivering a decision relative to a resolution sent from the other branch of the legislature, declaring it expedient to pass a law giving the choice of Presidential Electors to the People at the then session, and in the opinion of the witness, the plaintiff was highly intoxicated. His face was inflamed, his manner vehement and perplexed, and his dress very dirty and slovenly, even for him. Witness thought he had not been shaved that day. Plaintiff's appearance was substantially as described in the publication in question. The general conversation that evening where the witness was as to the plaintiff's appearance and condition, was, that he was intoxicated. It was most generally said he was drunk. The witness stated that there was a diversity of opinion as to the merits of his decision, but none as to his condition—none denied that plaintiff was intoxicated. Witness stated that plaintiff's general character was that of an intemperate man. It is very generally asserted by his political enemies. Plaintiff's counsel objected to the admission of the testimony, but the court decided it admissible. He had known him nine or ten years at Washington, been a member of the Convention with him, and a member of the Assembly in eighteen hundred and twenty-four, when plaintiff presided in the Senate.

Upon his cross examination, witness stated that he was at the bar of the Senate when plaintiff was speaking from the chair, and upon being asked if there was any thing remarkable in the plaintiff's mode of speaking, he answered in the affirmative, that his manner of speaking was hesitating, perplexed and confused, and that his whole appearance was different from that which he exhibits when sober, and that when not in liquor, the plaintiff speaks slowly, but fluently and without hesitation. Witness further answered, that he had been of the same political party with plaintiff, though they differed as to the late Presidential candidates, witness being opposed to Mr. Crawford, whom plaintiff supported. At said extra session a very strong excitement was prevailing. The friends of Mr. Adams, General Jackson, and Mr. Clay, desired the passage of the Electoral Law. Many gentlemen were attending the legislature as advocates for the different presidential candidates. Charles King was there, and was a friend of Mr. Adams. The witness was in favour of Mr. Adams. General Root was for Mr. Crawford, and was also a candidate for Lieutenant Governor. The Utica Convention had then been called by the friends of the Electoral Law to get up a nomination adverse to General Root.

Charles R. Webster was then sworn, on the part of the defendants, who stated, that after dinner, on the fifth day of August, eighteen hundred and twenty-four, he went with two friends of his who were strangers staying at his house, to the Capitol, in Alba-

ny. They first went into the Assembly chamber, and finding that body not in session, they went into the gallery of the Senate chamber. Witness was only able to crowd into the door of the gallery, where he stood from six to eight minutes—came in after the plaintiff had commenced speaking, and went out before he had concluded. When they entered the plaintiff was speaking. Witness had long known the plaintiff, not intimately, but for many years had been in the habit of seeing him constantly, and has a distinct recollection of his peculiar manner on that afternoon. He believed plaintiff then to be in a state of intoxication. Such was the belief of the witness, who then spoke of it, and thinks he used the term drunkenness in speaking of his situation. The witness' two friends coincided with him, and went away offended at seeing the presiding officer of the Senate in such a state. This witness returned home and did not go out again that evening, but the next day it was generally and unequivocally said at Albany, that plaintiff was intoxicated the day before while presiding over the Senate. Witness had been acquainted with plaintiff for many years, and his general character for temperance was very unfavourable.

Upon the cross examination, this witness said, that he did not feel much interest in the political topics then under discussion, and that he was too far off to observe accurately the appearance of the plaintiff, but thought that his whole appearance and manner denoted intoxication, though owing to his distance he could not state.

the particulars. Witness has, until eighteen hundred and twenty-three, been editor of the Albany Gazette and Daily Advertiser, a federal paper, always opposed to General Root and his politics. It is the same paper which is now printed by Hunter and Ryckman, near the Slippery Elm, and which is still opposed to General Root.

John Miller was then sworn, on the part of the defendants. He testified that he was in the Senate chamber in the afternoon of the fifth of August 1824—that his attention was first attracted to the plaintiff by his attempt to rise from his chair when he pronounced his decision referred to by the other witnesses. He got up from his seat with great difficulty, by placing his hands on the chair and apparently relying upon them for support, and after getting up leaned for support on the desk in front. His manner was that of an intoxicated man. His face was highly coloured and flushed, and the tobacco juice was oozing from his mouth—his dress was rather slovenly and his attitude unsteady. The uniform opinion at Albany was, that plaintiff was drunk upon the occasion alluded to in the publication in question. He appeared to witness to be so, and he fully believed that he was so.

Upon cross examination, this witness stated that he published a journal at Providence, Rhode-Island, and that he was in favour of Mr. Adams—that he supposed Mr. Adams' friends were in favour of an Electoral Law—that he did not come from Rhode-Island as the agent for Mr. Adams' friends, but that it was voluntary—that

he had no consultation with Mr. Adams' friends at Albany, as to their mode of proceeding, though he probably informed Mr. Wheaton that Rhode-Island would vote for Mr. Adams, and informed the plaintiff of the same thing. Witness' paper was neutral in the old controversy between the federalists and democrats. He left Albany for Saratoga on the seventh of August, and met many persons who were with him in the Senate chamber, and they were all of opinion that plaintiff was intoxicated at the time referred to in the said alleged libel.

Witness was attracted to Albany from motives of curiosity, and was there as a spectator and not as an actor—he never informed defendants that he could give testimony in their favour. Witness cannot recollect whereabouts he was in the Senate chamber—believes he was opposite to the chair, but cannot tell whether he was standing or sitting. Being asked what was the difference between the appearance of the plaintiff then and now, he answered, the difference between an intoxicated and sober man. Being asked what were the particulars of difference, he answered that he could not point out the distinctions—thinks his beard then was as long as one of the jurymen's. Witness chews tobacco, and sometimes spits out, and sometimes swallows the saliva. Witness, together with his friends, expressed disapprobation of the decision made by the plaintiff, but exhibited no irritation. Plaintiff's general conduct was then strongly disapproved of. Witness published a short article in his paper in Providence, in relation

to the plaintiff's decision and appearance, and re-published an article from the *Slippery Elm paper* on the same subject; but did not copy plaintiff's decision as reported in the Argus. The opinion expressed among those with whom witness associated, was, that the plaintiff was intoxicated.

William B. Lawrence was next introduced as a witness, and testified that he was in the Senate Chamber the afternoon of the fifth of August, eighteen hundred and twenty-four; that he did not observe the plaintiff enter the room, nor did he attend particularly to his appearance, his attention being then occupied in taking notes of plaintiff's remarks upon the question before the Senate. From his manner, and from his hesitancy and difficulty of speech, witness was impressed with the idea that plaintiff was intoxicated. This was "the general impression at Albany at the time, where the conduct of the plaintiff was the subject of general conversation. Witness took tea at Cruttenden's that evening with many persons of both parties. There was much discussion concerning what had transpired in the Senate on the afternoon of that day, and great difference of opinion as to the merits of plaintiff's decision, but none as to his intoxication at the time of making it.

Messrs. Stranahan, Bowne, Skinner, Van Buren, O. Hoffman, and C. King, were present, and participated in the conversation.

Upon cross examination, witness said that T. L. Smith, president of the City Bank, in the city of New-York, and Ogden Hoff-

man, among others, said at the time, that plaintiff was intoxicated. Witness was formerly connected with one of the defendants, they having married sisters. They did not meet by agreement at Albany, nor stay at the same house. C. King boarded at Cruttenden's, and witness resided at Governor Yates'.

The journals of the Senate and of the house were here introduced to shew the course of proceedings in the Legislature at the extra session in August, and the decision of the plaintiff on the point of order was read in evidence by Mr. Croswell, from a copy of the Albany Argus.

Charles E. Dudley was then sworn on the part of the plaintiff, and testified that he was a Senator in 1824—became a Senator in 1819, and was in his place in the afternoon of the 5th of August, 1824, and heard the Lieutenant Governor pronounce his opinion on the question of order. His recollections of it compared with the statement given by Mr. Croswell from the Argus. The plaintiff delivered his opinion slowly and clearly—slower than is usual with him in debate—with great ease and precision, and was unusually choice in the selection of his words. Witness sat directly opposite the plaintiff and near the chair, and did not discover any thing in his appearance or dress remarkable or extraordinary: there was nothing in his manner or matter that indicated, to his understanding, that the plaintiff was at all disguised by liquor, or that he was not in possession of all his faculties—believes he was as sober then as he is now. The

witness said he had been acquainted with General Root for many years, and intimately. On that day the weather was very warm, the room crowded, and there was a great press on the Senate. Witness resides in the city of Albany, and has for many years past—never heard, at that time, the charge of the plaintiff's being intoxicated on that occasion, otherwise than in the newspaper. There was great excitement in relation to the decision, and the points of the decision were freely attacked and defended.

Upon cross examination, witness said the plaintiff's general character for temperance, and particularly among his enemies, was unfavourable. Defendant's counsel then asked witness as to his experience of the plaintiff's temperance or intemperance. He replied, that he had frequently met the plaintiff as his personal and political friend, together with other gentlemen, at dinner and other convivial parties, where, as is usual, he might have partaken of liquor, and to a similar degree with witness and other gentlemen, and been excited by it. On being asked if he had ever seen him drunk he answered he never had. The counsel then asked witness if he would swear that he had never seen the plaintiff drunk or intoxicated. Witness inquired what definition he was to understand them as putting on the term. The court said the witness might give his own definition and answer accordingly. The witness said, he presumed drunkenness to mean an incapacity to command the faculties, to behave in a manner unworthy a gentleman, to be little

short of a beast. He had never seen the plaintiff intoxicated. They asked if he had not seen the plaintiff excited by liquor. Witness said he had no particular recollection. He had never seen him so in the Senate, where he had been with him two years. He was then asked if he would swear that he had never seen the plaintiff excited by liquor. Witness answered, that he would not swear so in relation to any gentleman of his acquaintance, and repeated that he had met the plaintiff at dinner and evening parties, where he might have partaken liquor, and no doubt did; but that he cannot say that he was ever more excited than himself or the other gentlemen. He always had perfect command of his bodily and mental faculties, and behaved like a gentleman. He was then asked if the plaintiff was not, on those convivial occasions, more often excited than otherwise. Upon being asked whether, on those occasions, plaintiff was more often excited than otherwise; witness replied, that he did not understand the drift of the question, and upon its being pressed, answered that plaintiff was never so much excited as not to behave like a gentleman. The witness was again asked whether he had not seen plaintiff more frequently excited by liquor than sober. The counsel for the plaintiff then objected to the question, and the honourable Judge who tried the cause sustained the objection, to which opinion of the Judge the counsel for the defendants then and there excepted.

John F. Bacon was then sworn, on the part of the plaintiff. He

testified that he had been the clerk of the Senate for nearly ten years last past, having been elected under Governor Tompkins. He was in his place on the left hand of the plaintiff the fifth of August, in the afternoon. Was there at the opening of the Senate, and read the resolution from the Assembly, and heard him deliver his decision.

He delivered his opinion clearly and slower than usual, shewing great deliberation. There was nothing in plaintiff's manner or matter that excited the least suspicion of witness that plaintiff was under the influence of liquor. He appeared to be perfectly sober. The plaintiff appeared to be in a state of languor. His countenance was paler than usual. He complained that day and the day before of the bowel complaint.

The custom of the plaintiff was to put his arms on his chair when rising, to aid him in rising. The chair is a deep one, with arms, and it is difficult to rise from it without putting the hands on the arms, and an effort. The present Lieutenant Governor has the same habit. Witness did not remark that the plaintiff was dirty, nor any thing particular in his appearance.

Upon the cross examination, this witness stated that plaintiff's character for temperance was, that he uses more spirits than people usually do, and perhaps more than is for his benefit; that is his general character. Plaintiff's manner in delivering his decision was slow and at times hesitating.

Edwin Croswell was again called, on the part of the plaintiff, and stated that he was in the Senate at the time alluded to and heard

his decision. He thought plaintiff was in the clear possession of his faculties, and had no idea that he was then intoxicated. There was nothing in his manner or matter that indicated it. His opinion was delivered with great deliberation. There was nothing in the dress of the Lieutenant Governor that attracted the attention of the witness.

Upon his cross examination, witness stated that the political enemies of the plaintiff accused him of intemperance, but his friends did not deny it or say much about it. Witness said the charge of plaintiff's intemperance proceeded from personal and political enmity, and as a general charge, he believed it without foundation. He had seen plaintiff excited with liquor with others, and perhaps witness was himself excited, but did not recollect ever having seen plaintiff thus excited except on some convivial occasion, nor had he ever seen or known plaintiff to have been in any degree disqualified by liquor from the discharge of his public duties. Witness was at tea at Cruttenden's the afternoon of the fifth August. Mr. Charles King, Mr. Lawrence, the witness, Judge Skinner, Mr. Bowne, and several others, were there; conversation was in regard to the decision made by the Lieutenant Governor. It was attacked with much warmth by some and defended by others. The conversation was loud and positive. Witness has no recollection of Mr. King, Thomas L. Smith, or any other one having charged drunkenness or intoxication on the plaintiff. The whole conversation related to the reasons assign-

ed by plaintiff for his decision. Did not discover any filthiness or any thing unusual in the plaintiff's dress. Did not observe his person at all.

Mordecai M. Noah was then produced, on the part of the plaintiff, and testified that he was in the Senate before it met, and saw the plaintiff walking about from desk to desk, in his usual manner, conversing with the members, about twenty minutes before the Senate was called to order. Plaintiff went through the business of the afternoon in his usual manner, and was very cool and collected. Did not observe he was in the least intoxicated. Witness has known the plaintiff since the year eighteen hundred and sixteen, first at Washington, the last seven years as a prominent politician. Mr. Charles King was intimate with General Root, and spoke of him in high terms until he discontinued the American, in eighteen hundred and twenty-three or twenty-four. This fact the editors of the American announced in a small paragraph in their pleasant way. The Kings separated from General Root on the Presidential question. Never heard any thing before from them respecting General Root, but what was highly commendatory. That he took tea at Cruttenden's that evening—found them talking warmly. The Adams men were very angry, and the Crawford men much pleased. The attack was made on the decision of the Lieutenant Governor, its propriety and constitutionality. Never heard the charge of drunkenness made till he saw it in the American, and then witness denied it promptly.

Upon the cross examination, witness said that he was the editor

of the New-York National Advocate, and was not on speaking terms with the defendants, though we sometimes sup together. He is not in the habit of attacking the defendants' private character in his newspaper, though he sometimes defends himself, and has occasionally spoken of their political character.

The direct examination being resumed, witness said that he was requested by the plaintiff to examine a file of the New-York American, in order to find a paper containing the first statement of plaintiff's intoxication, published on the seventh or eighth of August, eighteen hundred and twenty-four. Witness found the papers of the sixth, seventh and ninth of August, but that of the eighth was missing, or had never been put there—at all events it was not there. It had been torn out. Upon examining the journal, it was ascertained that the eighth of August, eighteen hundred and twenty-four, was Sunday, and the witness testified that no paper issued from the American office on that day. Witness said it had not occurred to him before that it was Sunday.

Jacob Haight was then examined, on the part of the plaintiff, and stated that he was a Senator in August, eighteen hundred and twenty-four, and in the Senate at the time alluded to—was in his seat in the afternoon of the fifth of August, eighteen hundred and twenty-four, and sat at the third seat from the Lieutenant Governor's desk; that he was at that time in favour of the Electoral bill, and of Mr. Adams for President, and was opposed to the Plaintiff's decision, and voted against it on the appeal to the Senate. He did not observe



any thing unusual in the plaintiff—discovered nothing in his manner or matter that showed him to be otherwise than sober ; and thinks, if he had been in the state described in the ' New-York American,' he must have observed and recollected it. Has been acquainted with plaintiff for thirty years. He cannot remember particularly his manner, as it was so long ago.

Upon cross examination, witness said that plaintiff, according to general report, was an intemperate man. Witness said that at an early period he had heard plaintiff charged with intemperance, and has never heard it denied. Can't say that he has heard more people say that he was intemperate than otherwise. Witness discovered nothing unusual in the plaintiff's countenance, dress or manner. His attitude was the usual and natural one. It is difficult and awkward to stand between the chair and the desk without resting one or both of the hands on the desk before him. It was the plaintiff's usual manner of standing, and it was usual for him to lean forward, pressing against the desk, and inclining on one hand, when addressing the Senate to any length. The witness has several times sat in the president's chair ; it is a deep and wide one, and stands so near the desk in front that it is difficult to rise without putting his hands on the arms, and aiding the body in rising by an exertion with the arms. He did so. It was General Root's and General Talmadge's habit to do so. Witness has heard General Talmadge deliver longer opinions than this when presiding over the Senate.

David Gardiner was then ex-

amined, on the part of the defendants, and testified that he was a member of the Senate, and in the Senate at the time referred to. He was not in his own seat, but in one directly below the desk, and very near the President. The manner of plaintiff was warm, animated, and heated. His recollection is very distinct that he then thought that plaintiff was intoxicated, and such is still his opinion. The plaintiff's condition at that time was the subject of general conversation. He could not say that any other than General Root's political opponents were present. It was at the capitol, and at witness' boarding-house, and he doesn't know that General Root's political friends put up there. The general opinion expressed was that the plaintiff was intoxicated. The general reputation of plaintiff was that of an intemperate man. Witness heard this to be his character before he knew plaintiff, and did not believe it ; but when he came to know and to act with him, he found the reports to be true.

Upon the cross examination, this witness said that he had seen the plaintiff intoxicated at other times than that alluded to in the " New York American," both in private and public, and even when acting in the Senate in his official capacity. He did not discover that his intoxication at those times affected his mental faculties, although it rendered him unfit for his station. As to what induced his belief of the plaintiff's intoxication, witness said it was produced by circumstances which it was difficult to detail ; that he was more animated that day than usual, and that he was always more animated when excited by liquor,

and he spoke more slowly, which was also the custom of plaintiff when excited. Witness was of the same political party with plaintiff, although they differed as to the Presidential candidates.

Israel W. Clark was then introduced, on the part of the defendants, and testified that he was in the Senate at the time alluded to, and saw the plaintiff enter the Senate. Plaintiff was walking arm in arm with another person, senator Bowne, and when he parted from his companion he staggered. After talking in the Senate ten or fifteen minutes, he went up to the chair, and in ascending took hold of the railing of the desk, as if to aid him in his ascent. Witness then thought he was intoxicated; and in delivering his address to the Senate he supported himself by his desk in front. —His speech was strong and violent. The general report there was that "Root was drunk." Some said "he was the drunkest they ever saw him." He does not recollect the expression of his face, as he was taking notes. Plaintiff's general character is that of an intemperate man.

Upon cross examination, this witness said that he published at the time, in the Albany Daily Advertiser, that plaintiff was a disgrace to the Senate, and should not sit there after dinner. It was meant to imply that plaintiff was drunk, and he made the publication because it was true. He meant to be the first to make the charge. Was then and still is in the employ of the editors of that paper. Gen. Root attacked witness in a political meeting, composed of persons adverse in poli-

tics to the witness, held at the capitol, when the witness was present, and charged him with being an eaves-dropper, and skulking behind the screen. Witness was sitting behind the screen, and had pen and paper in his hand, but was not taking notes, though he meant to give an account of the proceedings. Gen. Root, on that occasion, moved that he the witness should be removed, and said that he had been belied and abused enough in the paper of which he was the conductor. Witness said he would pay him off for what he said, and left the meeting; thought he had balanced accounts with him by an attack on Gen. Root he published the Monday following. Witness and plaintiff were on the same side in politics until eighteen hundred and nineteen, when every thing was turned topsy-turvy, and witness, in eighteen hundred and sixteen, was an elector, and voted for Mr. Monroe. In leaving his companion, upon entering the Senate, the plaintiff staggered sideways, but recovered himself without falling. In delivering his opinion, the plaintiff spoke very emphatically and slow, and at times appeared to hesitate. His voice was husky. Witness did not discover any uncleanness on his coat or shirt, or that his beard was long.

Gamaliel H. Barstow was then sworn, on the part of the defendants, and testified that he was a physician, and had been in the Legislature with the plaintiff for many years, and has seen him in the assembly under the influence of liquor, but never to such a degree as to incapacitate him from attending to public business. Has

seen him entirely free from it ; when so his manners were mild, parliamentary, and gentlemanly ; when excited he was boisterous and rude. Witness was in Albany on the fifth day of August, and a member of the Assembly, but not in the Senate chamber.—Heard the plaintiff's condition spoken of only at Gourley's, where witness boarded, and did not hear many speak on the subject. All the persons boarding there were adverse to General Root. His general character for temperance is bad.

Upon the cross examination, this witness said that at the place he boarded all the members were opposed to Mr. Crawford. He believed the plaintiff seldom came to the Assembly without being under the influence of liquor—supposes free drinking was habitual with him. Witness and the plaintiff are not now on the same side in politics, although they were formerly.

Elijah J. Roberts was then introduced, on the part of the plaintiff, and testified that he resides in New-York, and is the editor of the National Advocate, and that he was in the Senate at the time alluded to by the other witnesses. He did not observe the plaintiff until he took his chair, and could see and hear what took place, and did not think the plaintiff was intoxicated, nor had any appearance of it. He was not intoxicated. He had known him since witness was a child, intimately, at Albany and in Delhi, and did not observe in his manner or language any thing denoting intoxication. There was nothing peculiar in his appearance, altho' he pronounced his opinion more slowly than usual.

Upon his cross examination, this witness said that he knew Mordecai M. Noah, and after stating that he then had a controversy with him, and a suit in chancery—that they had been on bad terms for some time—he testified that the general character of the said Noah, for truth and veracity, was not good, tho' great difference of opinion as to it ; but that he would believe him under oath, where his interest was not concerned, or his feelings strongly—in which case he would not ; believed he would then square his oath according to circumstances. Witness has acted as Aid-de-camp to the plaintiff. There is a diversity of opinion as to his character for temperance. His political enemies charge him with it, and his friends deny the charge. Those persons who are in the habit of seeing him as an individual, say that he drinks too much. The witness was then asked as to his experience of his general habits for temperance ; to which question the counsel for the plaintiff objected, and the honourable Judge who tried the cause decided that evidence of the plaintiff's general habit was inadmissible, but evidence may be given of the witness' intimacy with him, to enable the jury to judge of his competency to decide from the plaintiff's appearance, as his being sober or otherwise : to which decision the counsel for the defendants then and there excepted ; and the witness answered that his intercourse with the plaintiff had been much and intimate, and he never saw him intoxicated in any shape. He has seen him affected by liquor so as to be more invigorated and more free in conversation after the

use of it—never any thing more than that. He has no doubt he could determine at once if plaintiff was in liquor. The counsel for the defendants then asked the witness how often he had seen the plaintiff intoxicated, and to what degree : which question was objected to by the counsel for the plaintiff, and overruled by the judge who tried the cause ; to which decision the counsel for the defendants then and there excepted.

John F. Bacon was again called by the plaintiff, who testified as to the plan of the Senate chamber, the arrangement of the seats—that from the chair to the lobby is about forty feet, and to the rear of the gallery a much greater distance ; and that there are two large crimson window curtains at the windows near the president's chair, on the west side of the room, which were drawn in the afternoon, to exclude the sun, and which in bright sun-shine, as it was that day, throw a strong reflection on objects in that part of the room.

Azariah C. Flagg, the Secretary of State, was then introduced, on the part of the plaintiff, and testified that he was in the lobby of the Senate at the time alluded to, and that he discovered nothing unusual in the appearance of the plaintiff. According to his recollection, there was nothing in his manner or matter indicating intoxication. Has no recollection that his manner was unusually slow or rapid. He usually speaks slowly, and with occasional pauses. Had a distinct view of the Lieutenant Governor. He spoke distinctly and with great clearness. *There was nothing to induce him*

to believe or suspect that the plaintiff was intoxicated. Became acquainted with plaintiff personally in eighteen hundred and twenty-three. Heard no charge made of General Root's being intoxicated till he went to New-York shortly after that session. Put up during said session, and until he went to New-York, at Rockwell's Mansion-house, a place of great resort by gentlemen of both parties. The friends of the electoral law denounced General Root as the person who had defeated their bill. *They spoke with violence and intemperance. It was a period of great excitement.*

Upon cross examination, this witness stated, as to general character, the plaintiff is supposed to drink freely of ardent spirits, but not to the extent of disqualifying him from performing his public duties. Is a political friend of the plaintiff.

Benjamin Knower was then sworn, on the part of the plaintiff, and stated that he had been Treasurer of the State, and was in the Senate the afternoon referred to some time before the house was called to order, and saw the plaintiff distinctly. Witness was near the fire-place. He has no doubt now, and had none then, that he was then sober. Plaintiff was more slow than usual in delivering his opinion, and was clear and distinct. He does not recollect noticing his dress at all, nor any appearances of tobacco juice about his face. Has been well acquainted with plaintiff about twenty years. The Senate chamber was much crowded. It was a clear and very warm afternoon. *Heard nothing said in Albany of his being intoxicated till after he saw the*

publication in some of the newspapers, and then he believed it to be a gross slander.

On cross examination, the witness said plaintiff has not the character of an habitual drunkard. His general character in that particular is that he uses liquor too freely for his own good. He also defined, on cross examination, drunkenness to be such a state, induced by liquor, as to disable a man from doing his duty; to affect his nerves; make him stagger; injure his faculties. He also said he was a political and personal friend of General Root.

Peter Pine, who was the only witness residing in Delaware, was then called, on the part of the plaintiff—was a member of Assembly from the county of Delaware, in 1824; was present in the Senate chamber on the 5th August, 1824—has been well and intimately acquainted with General Root for 25 or 30 years. Gen. Root was not, at the time alluded to, intoxicated. Has not the least doubt he was then entirely sober. There was nothing said, on the afternoon of the fifth of August, in the hearing of the witness, that General Root was intoxicated. Heard much said about his decision. The next day heard it said that the Lieutenant Governor was drunk. This came from none but those that were particularly unfriendly to him.

On cross examination, witness said that plaintiff's general character as to temperance, is, that he drinks rather too freely. Did not vote for plaintiff as Lieutenant Governor.

Ambrose L. Jordan was then called, on the part of the defendants, and testified that he is now a

member of the Senate, and that he was in the Senate at the time referred to, though not then a member of that body. The manner of the plaintiff was loud, vehement, though slow and measured, and occasionally unusual stops between the sentences. Witness was standing at the time near the south fireplace, and thought and remarked at the time that the plaintiff seemed somewhat excited. After leaving his seat, the plaintiff came down to witness and entered into conversation with a Mr. Cunningham, of the Assembly near witness. Witness had his attention then more attracted to the plaintiff by an expression he used, and he thought him intoxicated. The colour of his face was higher than usual, and saw tobacco juice which had run down the corners of his mouth and lodged there.—The general expression of his countenance was such as he had often seen when plaintiff was intoxicated. Witness had boarded with plaintiff, and had seen him under all circumstances—sober, intoxicated, much intoxicated, and staggering drunk. Had seen plaintiff staggering frequently. His general reputation is that of an intemperate man. This witness was not cross examined.

William Nelson was then sworn, on the part of the defendants, and testified that he was a Senator, and in his place on the fifth of August, after dinner—that the plaintiff was, in his opinion, at that time, unusually under the influence of liquor. It was the subject of free, but rather confidential conversation at the time, between witness and those Senators with whom witness was most intimate. The plaintiff's character is that

of a man in the habitual use of ardent spirits. His enemies charge him plump with intemperance, and his friends endeavour to palliate it.

John T. More was then introduced, on the part of the defendants, and testified that he was a resident of Delaware county, and had known the plaintiff for twenty years. His character, for many years past, has been well known for intemperance, and his habit, in that respect, has been growing on him of late.

On cross examination, witness answered, this has been his character for many years past, and before he was Lieutenant Governor; but witness took an active part in getting General Root nominated for Lieutenant Governor, and was particularly gratified with it. He separated in politics from the plaintiff on the Electoral question. He also ran for Congress in opposition to Mr. Foote, and was defeated. The plaintiff supported Mr. Foote.

William H. Elting was then sworn, on the part of the defendants, and testified that he resides in the town of Delhi, and that the plaintiff's character for intemperance is bad.

John Sudam, the counsel who opened the cause on the part of the plaintiff, was then sworn, on the part of the plaintiff, and testified that he was a senator and in his seat on the fifth of August. General Root came in before the Senate was called to order.—He conversed with several members, and had a particular conversation with witness and Edward P. Livingston for 20 or 25 minutes, and stated to them that he had reflected on the subject of the resolution from the Assembly about to be

presented to the Senate, and he had made up his mind that it would be out of order for the Senate to act upon it under the rules of the Senate; the resolutions that that body had already passed, and the disposition that had been made of the subject. Does not recollect whether Mr. Livingston expressed his opinion, but witness did, and concurred in that of the Lieutenant Governor. He knows that he was then sober, but he appeared to be somewhat in ill health. Witness heard him complain that week of being in ill health. There were no indications whatever of the plaintiff being at all under the influence of liquor. The plaintiff immediately after took the chair. Here the witness detailed the proceedings. The clerk read the resolution from the Assembly. Mr. Burt moved that the Senate concur. The Lieutenant Governor decided that the motion was out of order, and pronounced his reasons for doing so at length to the Senate. In making this address to the Senate, which is the one stated by Mr. Croswell from the Argus, the plaintiff was slow, clear, and choice in his words. Mr. Burt then made a motion to dispense with the rules of the Senate. The plaintiff decided that motion to be out of order, under the resolutions passed by the Senate a day or two before on the same subject. This decision was appealed from, and the decision was sustained by the Senate, 19 to 10. After this Mr. Nelson made a motion to suspend the rules of the Senate. This the Lieutenant Governor decided to be out of order; declared it to be the same question that had just been decided by the Senate on appeal, and conveyed the idea

that it was trifling with the Senate. In the latter decision, the Lieutenant Governor appeared offended. Saw the flush come in his face, and he spoke with vehemence and pith. From this decision no appeal was made. The room was crowded and the weather was very warm. There was nothing in the plaintiff's appearance, manner, or observations, that indicated he was in any other than a state of sobriety. Witness was at tea at Cruttenden's that afternoon. Mr. King, and several of the witnesses, and a number of other gentlemen were there. The decision was attacked by the Adams men with great severity. The conversation was noisy and passionate, but heard no charge made that the Lieutenant Governor was intoxicated. Had a conversation before going into Cruttenden's with Ogden Hoffman, in which Hoffman stated that he understood that the Lieutenant Governor had said that the rules of the Senate could not be altered by that body; that being made under the constitution, they were of the force of law, and could not be changed but by the consent of both houses; and that if he said so he must have been drunk. Witness assured Mr. Hoffman that the plaintiff had said no such thing. He had paid particular attention, and should have heard it if he had uttered it, and told him that at another time when he was more cool, he would satisfy him the decision was correct.

Upon the cross examination, this witness said there was great excitement at the time relative to the electoral bill, and the friends of it expressed great bitterness of

feeling towards General Root for having, as they declared, defeated its passage. Has known plaintiff for twenty years, and believes that he is in the daily habit of drinking ardent spirits, but has never known him so drunk as not to be able to talk with effect, or to conduct himself well, or that his mind was disguised or clouded. Witness is a personal and political friend of the plaintiff and personal friend of defendant Verplanck, but has not been on speaking terms with Mr. King, one of the defendants, for some time.

Jacob Haight was again called, by the plaintiff, and testified that it is usual and natural, in ascending the steps to the president's chair, to lay the hand on the railing. Observed it in General Root and the present Lieutenant Governor, and knows it from experience, having several times occupied the chair.

The plaintiff's counsel offered to prove, by several witnesses, the plaintiff's general character. This was objected to by the defendants' counsel, and his honour the Judge declared it inadmissible, until the general character beyond the particular of temperance was attacked.

The evidence on both sides being closed, the counsel for the defendants did then and there insist that the occupation of the defendants, the plaintiff's official station, the remarks themselves, and the proof offered in support thereof, made out a sufficient justification of the alleged libel, and showed a good and sufficient motive for their publication; that the current opinion and belief at the time, in Albany, and amongst the specta-

tors in the Senate, the fifth of August, eighteen hundred and twenty-four, justified the remarks; or that if a verdict should be found for the plaintiff, the malice of the publication was taken away, and only nominal damages could be awarded; that the belief of the defendants in the truth of the charge was proved by the evidence, and did away the presumption of malice; that the general character of the plaintiff for intemperance was such that no injury was sustained by the publication in question, and only nominal damages should be awarded.

The Judge charged the jury as follows :

*Gentlemen of the Jury,*

I am happy, at this late hour of the night, to assure you that, in the discharge of the duty imposed upon me, I shall not be required to detain you long; as I shall not feel it necessary to do more than lay before you a general outline of the case which it will then become your province to determine.

The proofs and discussions disclose an important and delicate case for our decision; it is a controversy of the bitterest character between men of high personal influence and consideration, and of differing political sentiments.

The one party has long filled important and influential stations in society—has been the subject of much public notice, sometimes of a friendly and applauding character, and at others of the most severe and recriminatory. The other parties are men of commanding talents and accomplishments, conducting a paper of distinguish-

ed repute and extensive circulation, and both parties from their political relationship and personal connexions, possessing an imposing influence over public sentiment.

The constitution and frame of our happy form of government gives cause to embarrassments and delicacy with the court and jury in regard to the subject now to be passed upon.

The functions of government are essentially in the hands of the people. They act directly upon all questions of a public character, and settle as electors the general policy of the government. Men are raised up and put down, not from regard or dislike to them as individuals, but from political considerations. From these reasons, parties might arise and be known through every portion of society. We have each of us, no doubt, been also called on to act in the interesting matters recently agitating the public mind, and we may to a greater or less extent have enlisted our attachments with one or the other of the opposing parties which have been so spiritedly assailed or supported by the plaintiff or defendants.

Political discussions are so conducted in this country as to identify principles and the persons who espouse them. All that is reprehended in the tenets and supposed views of a party is imputed to the individuals composing the party; so also every foible or vice of the party man is considered as belonging to the principles he advocates and the entire body connected with him.

On the other hand, we are inclined to hold him clear of all of-



fence who concurs with us on favourite political points, and to esteem him individually as immaculate as we do the principles he possesses.

Should prepossessions or antipathies of this character have affected our minds in respect to either of the parties to this suit, we are called upon now, by all that can solemnize and rectify the understanding and heart, to dispossess ourselves of their influence, and to feel that we are not to act upon these topics as electors or political partizans, but as judge and jurors.

We must know these parties and the interesting matters connected with the cause only as disclosed to us by the testimony : we should endeavour to feel as if this suit was between men of high name and character, with whom and ourselves there were no common ties of attachment or resentment, and who reside, not intimately with us, but in some other state or country, and we may then pass upon the issue as between man and man unknown to us, or never heard of, until placed before us for judgment.

Being possessed of this impartiality of mind, we may address ourselves to the consideration of the facts and circumstances brought out by the proofs and discussions.

The action is for publishing in the defendants' newspaper allegations against the plaintiff, which are considered libellous. The defendants admit they made the publication, and if its tenor is to hold the plaintiff up to reproach, or to disgrace him either in his official or private character, it is a

libel ; for in respect to written and printed slanders, the law holds the publisher liable to an action for any malicious defamation, exposing the plaintiff to public hatred, contempt, or ridicule. Malice in making the publication need not be proved ; it will be implied, if the charge is false.

Is this publication libellous ? To ascertain this, you will direct your attention critically to the publication, reading and understanding it according to the ordinary import of the language used.—What representations respecting the plaintiff are made by it ? It having been twice read to you, I will not occupy time by reading it at large again : the purport of it, as charged upon the Record, is that the plaintiff being President of the Senate, came into the Senate on the day mentioned, staggering under intoxication ; that he mounted the steps to the chair with difficulty by help of the railing ; that he sat in the chair with an expression of countenance denoting drunkenness ; that he was in an ungentlemanly and uncleanly habit of person and dress ; that he conducted like a sot from the public kennels, and exhibited himself an object of disgust and loathing to the respectable audience collected in the Senate chamber.

I do not attempt to repeat the language of the publication in these particulars. nor to rehearse all the charges designated by the declaration—you will take the paper with you, and read the article over yourselves for your better information. My object now is only to lay distinctly before you those matters which have been urged on the part of the

plaintiff as most offensive, and are insisted to have been proved on the part of the defendants.

Enough has undoubtedly been stated in this summary of the charges to manifest the libellous character of the publication ; and indeed it has not been contended on the part of the defendants that it is not libellous and actionable.

They assume higher grounds of defence, a ground of defiance. They put it on the record, and meet this action upon the issue, that all they have asserted of the plaintiff is true.

It is no doubt familiar to you, that if this defence has been sustained by the proof, it amounts to a perfect answer and bar to the plaintiff's suit. And though much has been said to you of the malicious and vindictive motives of the defendants, yet, in the consideration of this branch of the case, their motive is to be laid entirely out of view.

Should the scope of proofs and circumstances lead you to believe the defendants had no good end in contemplation ; that they were instigated to these charges solely to avenge personal or political resentments against the plaintiff, still, if they have satisfactorily shown the charges to be true, they must be acquitted of all liability to damages in a private action on account of the publication. Indeed, if good motives and justifiable ends must be shown, they might well be implied from the establishment of the truth of a charge, for like reason that malice is inferred from its falsity.

The defendants having undertaken to justify the libel, must

make out on their part affirmatively and clearly the truth of the publication.

It will not be sufficient for them to raise a doubt whether it may not be true, but the fact must be established with that degree of certainty always required to justify a verdict giving to a party any matter demanded by him. Neither will it be a good justification of various slanderous imputations to prove a part of them true, all that is libellous in the publication must be justified. Damages must be given for such part, if any, as the defendants fail to support. They must make their proof as broad as their charges.

In doing this, they are not, however, called upon to show a correspondence to the letter between the proofs and the publication. They must make out substantially the truth of what they assert, and if they do this, no regard need be paid to the severity of epithets or harshness of sentiment under which it is represented.

The law enforces no oppressive or unjust rule in requiring this. The defendants made this publication voluntarily ; they were neither constrained by process of law to give it ; nor was it communicated confidentially to those entitled to ask it ; and according to all principles of reason and law, they must be deemed to have incurred the peril of substantiating what they have thus openly and broadly charged upon the plaintiff. You will accordingly ascertain, with exactness, what the substance and nature of these charges are ; so that you may then estimate and apply the evidence, and de-

termine whether they are proved to be true.

If you understand the charge to be, that the plaintiff was drunk on the occasion, that charge will not be justified by proving him excited by liquor to any degree less than that of drunkenness.

A good deal of difficulty has occurred with various witnesses in explaining what they understood by drunkenness or intoxication: and probably the court and jury would experience like embarrassment in attempting to define, with precise discriminations the one state or the other. In this case, the attempt is not required, because we are to take the plaintiff's situation as stated and specified by the defendants in the libel.—They have given it with great particularity, and whatever it may be termed, such as they describe it, they must satisfy you it in truth was at that time.

Drunkenness may be proved in various ways. It would be considered direct and positive evidence, to prove the plaintiff was seen to drink a quantity of ardent spirits, sufficient to intoxicate an ordinary person, and which was followed by the usual apparent effect; or that he was discovered in a bodily condition unequivocally denoting a state of intoxication. Indirect proof may also be received, as the opinion of persons knowing the plaintiff, formed upon observation of his movements, actions, language, or tones of voice. Where the bare opinion is given, you must consider carefully, both the previous acquaintance of the witness with the plaintiff and his situation and opportunity for making observations at the time of

which he speaks. When these particulars afford satisfactory evidence to the jury that the witness is qualified to judge, and advantageously circumstanced to make a correct observation, his opinion will be competent evidence to prove drunkenness, intoxication, or any other disordered state produced by spirituous liquors.—When, however, the witness details the particulars upon which his opinion is formed, the jury must then determine the adequacy or adaptation of those particulars to the conclusions drawn by the witness. The mere opinion then is to be of little or no account, and the matter is to be determined as if the circumstances noticed by him were alone stated by the witness without any expression of his own sentiments upon them.

Much has been said about the liberty and privileges of the press, and that great liberality should be extended towards this justification because of the danger of trammeling the press by exacting strict proofs in relation to communications made through it to the public.

Whatever bearing these considerations may have upon another branch of the defence, they have no just application to this point. The defendants are responsible in all respects as if the charges had been made by them in any other manner and capacity than that of editors of a newspaper; they have no privilege in this respect not common to every correspondent to their paper, and every other individual in the community. Whenever they, as editors, assume the privilege of denouncing individual character, they do it under every

responsibility that would attach to citizens in any other capacity. Their privilege is simply to publish the truth and nothing more.

If they have proved substantially to your satisfaction that they have done no more than that, they are entitled to a free and prompt verdict of acquittal, however injurious the publication may have been to the plaintiff.

I am spared the necessity of rehearsing at large the proofs to this point, since the counsel for both parties have gone minutely over them, and do not appear to differ in their views of the evidence, and no doubt the essential particulars are brought back to your recollection.

It is not to be disguised that there has been much contradictory testimony, and the difference between the representation of the various witnesses is more especially matter of regret, as it may afford occasion for you to apprehend that the testimony has been affected by the feelings of good or ill will of the witnesses towards the opinions of the respective parties; as it will not escape your remark that, with the exception of Mr. Haight, the adverse witnesses stood opposed to each other in political sentiments; and every one called by the plaintiff warmly espoused his sentiments and opposed the political course of the defendants, at the time alluded to, and all those called by the defendants decidedly objected to and opposed the political course of the plaintiff.

Yet there is no doubt of the entire credibility of every witness upon either side.—They are gentlemen of the first integrity and

intelligence, and no inducement can be supposed in the case sufficient to lead them to misrepresent or withhold any fact within their knowledge, whatever the effect of such fact might be. They are rather to be understood as swearing to their impressions and inferences from like facts than to different statements of the same facts. And these observations may account for the diversity; it being a variance of opinion between them, rather than contradictory representations of the same thing; and besides, they may not all have been equally well situated to observe the matters upon which the difference exists.

Each witness giving his own impression of what passed under his notice, it will be important that you consider attentively the respective opportunities of the witnesses, to ascertain the facts of which they speak, before you can determine the degree of credit they are to receive.

Several witnesses, called by the defendants, here testified to the appearance of the plaintiff in the Senate on the fifth of August, and their opinion of his condition.

Messrs. Wheaton, Miller, Webster, Gardner and Jordan, speak particularly of observations made by them whilst the plaintiff was in the President's chair—Mr. Clarke of his appearance in entering the Senate and ascending the chair, and Mr. Jordan describes his appearance when he descended from the chair. Messrs. Lawrence and Nelson say nothing of the plaintiff's appearance, but concur in opinion and belief with the other witnesses named, that he was intoxicated: or rather, as

they state it, "that he was under the influence of liquor."

As has been before remarked, the jury are not to receive the mere opinions and belief of witnesses, unaccompanied by the circumstances from which they are derived, as direct positive testimony that the plaintiff was intoxicated, but only as evidence tending to establish that fact, and proper to be weighed with the other proofs in the case.

The five gentlemen first named, relate the appearance of intoxication they observed, and also express in unreserved terms their opinions that the plaintiff was intoxicated.

You will consider, first, whether the appearances detailed of themselves, indicate a state of intoxication, or may naturally be accounted for otherwise; and next the circumstances of advantage possessed by the witnesses for making their observations, and compare the latter with those of others giving a different opinion.

Several of these witnesses remarked a high flush in the plaintiff's countenance.

It appears there are two windows with crimson curtains, at the west side of the Senate chamber, the light through which would fall upon a person in the president's chair; and if the inflamed appearance of the plaintiff's countenance may satisfactorily be accounted for by the light of an afternoon sun shining through red curtains on his face, or to the excitement produced by earnest speaking in a summer's day, that appearance of itself would afford but slight evidence, and indeed ought not to be considered any proof of intoxication.

The mode in which the plaintiff delivered his address, is a particular referred to by several witnesses as one indicating he was then intoxicated. It was said by some to have evinced unusual effort, and to have been done with great slowness and hesitancy.

If his enunciation was slow and hesitating from difficulty of utterance, confusion of thought, or the use of inapt expressions, that would afford very proper and direct evidence of a state of intoxication. If, however, with equal propriety it may be imputed to an endeavour to be distinct and precise in the arrangement of his address and the selection of language, the effect of the evidence would be the other way, and would go strongly to establish his sobriety and clearness of intellect. But the particular will be entitled to little or no weight either way, if differently understood by the witnesses.

Messrs. Wheaton and Lawrence represent his delivery as hesitating and perplexed; Messrs. Gardner, Jordan, and Clarke, as animated, vehement, and violent, each noticing the plaintiff's articulation as one of the circumstances indicating his drunkenness. Various other witnesses state it to have been more calm and deliberate than his usual manner, and as apparently adopted with a view to render his ideas perfectly explicit; or, according to Mr. Bacon's impression, as resulting from debility of body.

Should you deem the state of the plaintiff's complexion, and the manner of his utterance, important items towards determining whether he was drunk or sober, it will be necessary to consider care-

fully the relative situation and number of the witnesses who speak to these particulars.

Messrs. Whenton, Webster and Miller were at a distance, as variously estimated, of 30 or 40 feet from the plaintiff; Mr. Webster the farthest off, and in the gallery; Mr. Jordan sat considerably nearer him; and when the plaintiff came down from the chair, after delivering his opinion, was directly by him, if not in conversation with him. They state his face was unusually florid and excited. Messrs. Lawrence, Gardner, and Nelson, were sitting very near the plaintiff, but did not observe his person: Mr. Gardner believed him intoxicated, from the tenor of his language; Mr. Nelson thought he was so, but assigns no reason upon which his opinion was founded.

Messrs. Sudam and Bacon observed before he spoke that he was pale as from illness. Mr. Sudam had a conversation with him before he went into the chair, and Mr. Bacon stood directly by his side whilst he was seated.

Many other witnesses had their attention fixed upon the plaintiff, but observed nothing uncommon in his countenance or dress.

But was he intoxicated? that is the fact to be established:—his countenance and deportment at the time are only referred to as circumstances conducing to prove or disprove that fact. Was he intoxicated as represented in the libel, and does the charge imply that he had not the exercise of his reason and understanding? As to the state of his mind, there appears to be no diversity of opinion among the witnesses; almost all

of them concur in saying that his address was delivered with clearness, and in language strong and appropriate in reference to the matter. No one pretends he was incoherent or at all confused in the statement of his argument. The evidence of Mr. Sudam is also very direct and strong to this point. He conversed with the plaintiff upon the subject then to be decided just before he took the chair, and observed no indications whatever of intoxication.

These are all the points of the testimony with which the court will trouble you.

You will upon this most important branch of the defence, by a careful and dispassionate consideration of all the evidence, determine whether the defendants have succeeded in proving that the plaintiff was on the 5th of August in the situation they have represented him to have been. If the defendants have only published the truth, they had unquestionable right to do that, and they must be acquitted. If the plaintiff has been falsely libelled, he is entitled to a verdict.

As on the one hand the defendants are only required to support the essential and substantive matters of their charge; so on the other, the law holds a justification insufficient that fully proves a part of the libel, leaving other essential parts unsustained. The rule is that the justification must be co-extensive with the slander.

There is a double aspect to the defence: if the defendants fail to justify, they may still offer evidence in mitigation of damages.

Although the imposition of damages is placed by the law

wholly at the discretion of the jury, yet there are certain fixed rules which ought always to be regarded in determining whether in a given case damages should be mitigated or aggravated.

In reduction of damages the defendants have been permitted an unlimited examination into the plaintiff's general character for temperance, with a view to show it already impeached, and in general bad estimation as to the specific thing they have alleged against him.

This is both because, if it is his general repute, it may be presumed the defendants, under an honest reliance upon general report, have asserted things which, though not proved true, they have published without design, to give currency to what they might otherwise be supposed to know was false; but more especially because damages being claimed for an injury to character, to show a destitution of character in this very respect removes the ground upon which the claim of damages rests.

The public are deeply concerned that individuals should acquire and maintain good characters. Such characters become a guaranty for the preservation of order, and a wholesome respect to the laws, and the proper education of the rising generation. The law will therefore secure, by its most powerful sanctions, the enjoyment of such character to those possessing it; and when wantonly and unjustly assailed, will punish with severity the authors of the injury: and it will discountenance all endeavours of those of bad name to obtain damages on account of slanderous imputations.

Thus constraining men by the hopes of protection and reward, and the dread of disgrace and the loss of money, to aim at a respectable and fair standing in the community of which they are members.

But although a man has a bad general character, the law will not permit him to be falsely slandered, and will punish with nominal damages at least, and costs, those who so defame him; so also, though his character be bad in some respects, this shall not even mitigate damages for falsely traducing him in others. These remarks indicate the rule to be observed in the present case: the defendants in mitigation of damages are entitled to show the plaintiff had a general reputation equivalent to what they have charged upon him. Unless their proof amounts to that, it can be of no avail to them. They cannot give evidence of general character in respect to temperance, in mitigation of damages, unless such general character is of the same quality and degree charged in the libel.

For instance, it cannot be permitted them to say the plaintiff was drunk, and an object of loathing and disgust at a specific time, and then diminish damages by proving him generally reputed to be addicted to the free use of spirituous liquors, and often exhilarated by them, more than one can call another a thief, and then prove in mitigation of the damages that he was commonly believed guilty of petty trespasses upon his neighbour's property.

You will accordingly, before you give any weight to this sort of

evidence, see clearly that it bears out the specific charge; for it cannot be resorted to in diminution of the injury, unless it comes up to the offence imputed. It is not enough that the general character appears to be of a like description with that alleged in the libel, without it also is so, to the same extent and degree. For you will remember that testimony is only offered as to the plaintiff's general character in relation to the matters stated against him in the publication; no attempt is made to impeach his character for probity and moral worth.

The defendants have also been allowed, upon this point of damages, to prove they had probable cause for making these charges against the plaintiff. To do this, they have offered evidence to satisfy you that it was commonly reported and believed in Albany at the time, that the plaintiff was in the condition represented in the libel. This kind of proof must also go as far as is required in regard to general character. It must plainly appear that the defendants have asserted *nothing more* than was then matter of common report in Albany respecting the plaintiff's condition and conduct in the Senate chamber.

But another consideration is to be regarded in connexion with this subject. You will not only inquire whether such common opinion prevailed, but also ascertain from the whole evidence whether it influenced the defendants to make the publication. In the absence of testimony to this point, the law would presume the common belief entered into the contemplation of the defendants, and

was the probable cause of the publication. The evidence is received to obviate the implication of malice resulting from publishing a defamatory charge not shown to be true. But if the plaintiff has been enabled clearly to satisfy you that the defendants acted under no such influence—if he has proved that the defendants rested the charges upon their own assertions without any reference to, or knowledge of, such general belief—then the existence in fact of the common reputation would afford no mitigation in their behalf.

Some extraneous topics connected with the case, ought probably to be noticed before closing these remarks to you. They will properly enter into your contemplation either in discharge of the action, or in reducing or augmenting the damages. Such are the relative situations and conditions of the parties—the probable effect of such imputations upon the character and feelings of the plaintiff—his own conduct, and especially the motives actuating the defendants.

The plaintiff has for a quarter of a century been emphatically the child of public favour. Every station the suffrages of his immediate constituents could confer upon him he has held; and has been conspicuously honoured by the confidence of his District and State. These advantages and honours were bestowed upon him, not for his personal distinction alone, but in consideration of services and benefits to be returned by him to the people who conferred them. The public had a right not only to the exertion of the talents and faculties with which he was so eminently gifted, but especially to a



moral and wholesome example, in the high and commanding stations to which he was advanced.

To give himself up to a beastly habit of intoxication would prevent his rendering those talents useful to his country ; and greatly worse, would inflict a deep injury in disgracing the public character and encouraging a pernicious vice by the influence of a great name and exalted station. If the plaintiff is proud to be such a man ; especially, if in the discharge of his high offices he has disgraced himself and outraged public feeling by open acts of drunkenness—you need not be told from this place that he has no right to damages, and that the defendants should be at once acquitted from all responsibility to him ; or if he has the common reputation of so conducting himself, you will impose on the defendants the least possible amount of damages. You should, and no doubt will, promptly mark by your verdict your disgust at a prostration of character so degrading.

It is abundantly manifest, from the whole course of the proofs, that the plaintiff has for many years indulged in the free and constant use of spirituous liquors. You will, no doubt, severely reprehend the practice. You will lament that a man of liberal education—placed in the most elevated places in society, and of pre-eminent talents—should jeopardize his health and usefulness, and the public claims upon him, by a course of ruinous or degrading dissipation.

But if he has discharged all his public duties with ability, and propriety—if he has no such general character as is fastened upon him

by this libel, although he has given way to the indulgence of his appetite in this respect in a way we should most strongly disapprove, yet you will remember that with his secret vices, or foibles, or infirmities, we have no concern in this trial ; and he has a right as a citizen to be protected from a gross and malignant libel ; his feelings, and those of his family, are not to be harassed by a wanton exhibition of him in a way not justified by the direct proofs or common fame ; and under such circumstances the case might well justify exemplary damages.

The situation of the defendants is also to be regarded, and the means at their command and used by them to give credit and circulation to the libel, and whether they promulgated it with malicious and vindictive feelings towards the plaintiff.

They are men of talents and great personal influence, having under their control a paper circulating extensively throughout the United States, and of much weight upon political and literary topics. By these means they are enabled to give greater effect to their attacks upon the plaintiff, rendering the charges both durable and widely known. They are accordingly more deeply responsible to him for an attack upon his private and public character in that mode.

It has, however, been strenuously urged in their behalf that the plaintiff was a public man in a public station, and his character and conduct a matter of general concern ; and that their employment as journalists imposed on them the duty of giving circulation to all matters of general interest ; and if they have thereby injured

the plaintiff, the offence ought to be more leniently dealt with on that account.

There is no foundation in reason or law for the argument. The public are only interested in knowing the truth; they do not require, on the contrary they are deeply interested in, preventing all unfounded detraction of public men; and the press is not put in the defendants' hands, and patronized, as an instrument of private revenge, or the vehicle of their personal animosities.

A trust of the most interesting and important character subsists between the public and the conductors of the press. It is that nothing but correct and useful and wholesome matters shall be circulated; especially that no other shall be given as upon the personal knowledge of editors.

In the present state of society, newspapers become almost elementary works of instruction; they are admitted into our families, to be read by our wives and children, and passed from member to member with the same unreserve that school books and books of worship are. They furnish aliment to the youthful thought and taste, and when badly conducted they become the most mischievous poison. No one has his newspaper inspected, or cautions his family against the pernicious principles it may hold out for imitation, before allowing it to be read; but placing confidence in the moral sense and integrity of the publishers, it is permitted to be perused without check or restraint. The psalm book, prayer-book, and even bible, are not more free to the use of our children. How important it is that their young minds

should not be taught to entertain or vent coarse and opprobrious sentiments of others; and that our public prints should not bring before them a constant exhibition of bad passions or scurrilous revilings of those with whom the editors chance to be at variance! The press is a most efficient engine, and when directed to the destruction of private character, few can withstand its power. What is the appeal; what the protection against it? who listens to the cry of innocence, or regards the pain inflicted on the sufferer or his unoffending relatives? Does the public taste demand these bitter and unmitigated aspersions of private reputation which so crowd the newspapers of the day? It cannot be. A more exalted and humane feeling pervades this community; and in a fitting case a jury could render no more meritorious service to the public than in repressing this enormous evil—It can be done only by visiting with severe damages him who wantonly and falsely assails the character of another through the public papers. A vigilant watch should be kept over the editors of our journals to prevent their being vehicles for the indulgence of private resentment.

Yet however aggravated the practice of traducing character so openly and virulently through the press may have become, you must be cautious not to let your anxiety, to check a great evil, lead you to do a wrong to these defendants. They are called upon to answer for a specific injury, and if they have cleared themselves of that, no considerations of general expediency should induce you to punish them for offences not charged against them in this action. And

in seeking to restrain the licentiousness of the press, you will be careful not to trammel fair discussion, nor punish truth, however painful it may be to those of whom it is published.

If your verdict is for the plaintiff, the question of damages is submitted, under these observations, wholly to your discretion: that discretion, however, to be guided by your reason and not your passions; and the damages will be apportioned according to the nature of the injury, the motives of the defendants, and the relative situation and circumstances of the parties.

The defendants had a right to describe the plaintiff such as he was—they are responsible to him in damages, if they have maliciously and falsely libelled him.

The Jury retired late in the evening, of the 14th of June, under this charge, and having been out all night, came into Court in the morning, and requested to be again instructed as to the proof of general character that might be received in mitigation of damages. The Judge observed to them “that the defendants may not give evidence of general character as to temperance in mitigation, unless of the same quality and degree charged in the libel.”

The Jury again withdrew, and shortly after returned into Court with a verdict for the plaintiff, \$1400 damages and six cents costs.

To this verdict and to the directions of the Judge to the Jury, exceptions were taken, and an application was made to the Supreme Court in the August Term, 1827, for a new trial, upon these among other grounds, viz. that the verdict

was against evidence, and that the damages were extravagant—that defendants were not permitted to inquire whether plaintiff was not seen more frequently excited by liquor than sober, nor to inquire into the general habit of plaintiff in that particular—that the charge of the Judge was not warranted by the evidence, and tended to mislead the Jury, by withdrawing from their consideration the question of malice, and of the entire belief of the defendants in the truth of their charge—that he decided that the general character of the plaintiff for intemperance, unless of the same quality and degree as charged, was not admissible even in mitigation of damages, neither was the general and contemporaneous report at Albany of his condition on the day referred to, unless it appear that the defendants relied upon such report in making their statement—and that he instructed the Jury that the malice of the defendants was a matter of legal inference and not a question for their consideration, if the charge of the defendants were not true; whereas they contended that if they believed it to be true, and made it in good faith and upon substantial grounds for their belief, they were justified in making it, or at all events these were strong circumstances in mitigation.

These questions were elaborately argued by Messrs. J. Bunt and D. B. Ogden for defendants, and J. Sudam and Elisha Williams for plaintiff, and at the next term the Court refused the motion for a new trial.

The opinion of the Court in the first instance gave an account of the trial and of the proceedings, and then went on as follows:

1. A libel is defined by *Blackstone*, to be a malicious defamation of any person, and especially a magistrate, made public by either printing, writing, signs or pictures, in order to provoke him to wrath, or expose him to public hatred, contempt and ridicule. (4 *Bl. Com.* 150.) *Hawkins* defines a libel, to be a malicious defamation, tending to blacken the memory of one who is dead, or the reputation of one who is alive: and expose him to public hatred, contempt or ridicule. (*Hawk. b. 1, ch. 73, s. 1.*) *Chitty* remarks, that the term *malicious* is introduced by *Hawkins* into the definition of libel; but in this case, as in murder and many others, the quality is rather a legal inference from the crime than one of its constituent parts; and there is no occasion to prove it. (3 *Ch. Cr. L.* 867, and the cases there cited.)

The judge, on the trial, laid down the law substantially as given by these writers; expressly stating that if a libel be false, malice is inferred, and need not be proved. As he is supposed to have erred in this particular, it may be proper to see on what authority the assertion rests, that malice is implied from the falsity, the libellous character of the publication being admitted.

In *the King v. Woodfall*,\* (5 *Burr.* 2661,) tried before Lord *Mansfield* in 1770, he told the jury, that whether the paper was in law a libel, was a question of law upon the face of the record; for, after conviction, a defendant may move in arrest of judgment, if the paper is not a libel. That all the epithets were formal inferences of law from the printing and

publishing. That no proof of express malice ever was required; and, in most cases, is impossible to be given. That the verdict finds only what the law infers — That when an act in itself indifferent, if done with a particular intent, becomes criminal, then the intent must be proved and found: but when the act is in itself unlawful, the proof of justification or excuse lies on the defendant: and in failure of that proof, the law implies a criminal intent.

This doctrine received the approbation of the whole court; and seems not to have been again judicially agitated, till 1784, (3 *T. R.* 428 note (a).) when the dean of *St. Asaph* was tried for a libel before Mr. Justice *Buller*. He maintained the same doctrine, and gave the same direction to the jury; that all they had to find, was the fact of publication, and the truth of the innuendos; leaving the question of libel or not, upon the record, for the court. On the case coming before the king's bench, Lord *Mansfield* declared that such had been the practice of the court for more than 100 years.

Soon after the trial of *Woodfall*, lord *Mansfield* was attacked in parliament, and his doctrine denied by lords *Camden* and *Chatham* in the house of lords, and by Messrs. *Glynn* and *Dunning* in the house of commons. The complaint was, that, by the decision, juries were to judge of the facts and tendency only; but not of the intention; and that the truth of the allegations could not be pleaded in abatement of the guilt. (*J. Bissel's History*, 321.) And in 1791, the statute 32 *Geo.*

3, *ch.* 60, was passed by which the jury are authorized to give a general verdict upon the whole matter in issue ; and shall not be required to find the defendant guilty upon proof of publication and of the innuendos only. I believe it was denied by no one, either in court or in parliament, that the publication of a paper libellous and unlawful upon its face was, *prima facie*, evidence of malice, nor was it contended that express malice should be shewn by matter *aliunde*. It was, indeed very properly contended, that the criminality consisted in the malicious intention ; and that the establishment of the fact of publication was merely evidence of the crime ; but not to the crime itself. That every general verdict involves a question of law ; and that the judge should have instructed the jury how to form the general conclusion of guilty, which is compounded of both law and fact. That if the term *guilty* was essential, then a conclusion of criminal intent had been obtained from the jury, without permitting them to exercise their judgment upon the defendant's evidence. That in all cases, where the mischievous intention, which is the essence of the crime, cannot be collected by simple inference from the fact charged, because the defendant goes into evidence to rebut such inference, the intention becomes a pure unmixed question of fact for the consideration of the jury. (*Starkie on Slunder*, 362, 3, 4, 5, 6.)

The act of parliament did not undertake to declare what should be evidence of publication, or of the malicious intent ; and that the

law on that point was not questioned by parliament, or by any one else, appears from the case of *The King v. Lord Abingdon* (1 *Esp. N. P. Cases*, 226.) That was an indictment for a libel upon an attorney, by a member of the house of lords, in a speech made in that house, and published by him in the newspapers. The trial was about three years after the passing of the act on the subject of libel. Lord *Kenyon* declared the law to be as follows : " In order to constitute a libel, the mind must be in fault, and shew a malicious intention to defame ; for if published inadvertently, it would not be a libel. But when a libellous publication is unexplained by any evidence, the jury should judge from the overt act ; and when the publication contains a charge slanderous in its nature, should from thence infer the publication was malicious."

Such has always, I apprehend, been the law in *England* ; and such is the law there now. The case of *The King v. Creerey*, (1 *M. & S.* 273.) was for a libel ; and, like the last case, against a member of parliament, for publishing his speech containing a libellous charge in relation to an individual. It appeared, in this case, that the defendant had not been entirely a volunteer in publishing his speech ; but that an incorrect report of it having appeared, he furnished a correct one, which was also published, and contained the libel complained of. The counsel for the defendant, at the trial before *Le Blanc*, justice, in 1813, contended there was nothing to submit to the jury ; for, 1. there was no proof of malice ;

and, 2. the defendant was privileged as a member of parliament. The judge decided that it was not necessary to prove malice; but it might be inferred from the publication itself; and, upon the authority of the last case, he held that the defendant was accountable for publishing his speech in parliament; though for speaking the same matter in parliament, he was not answerable. The court of king's bench refused, on a motion for a new trial, even to grant a rule to shew cause; because, as lord *Ellenborough* said, the granting it would be to create doubts, not to settle them. On the point of malice, he said, the only question was, whether the occasion of that publication rebuts the inference of malice arising from the matter of it. *Le Blanc*, justice, said he stated to the jury that when the publication is defamatory, the law infers malice, unless something can be drawn from the circumstances attending the publication, to rebut that inference; and he left it to them to say, whether the circumstances did so rebut it. Mr. *Phillips*, in his treatise on evidence, says, "malice may be inferred from the publication, or proved by evidence. It must often be extremely difficult to produce direct evidence of a malicious design, extrinsic and independent of the publication in question; but the publication itself will often afford the most convincing proof of malice. If the words are directly calculated to slander and degrade the character, the obvious inference is, that they were designed to have this effect, unless something can be drawn from the circumstances attending the publica-

tion to repel such an inference.—All the circumstances, therefore, the manner, the occasion, and the matter of the publication, are most material and important considerations." (2 *Phil. Ex.* 106.)

An unsuccessful attempt to justify the words or libel, is evidence of malice. (15 *Mass. Rep.* 48.) So, in this court, the plea or notice of justification, if unfounded, is always considered an aggravation of the offence; and good ground for enhancing damages.

In *Gray v. Pentland*, (2 *Serg. & Rawl.* 27,) *Brackenridge*, justice, makes use of this language: "The idea that a person libelled, or maliciously prosecuted, must prove the *quo animo*, or express malice, is of all things the most absurd."

It was, perhaps, unnecessary to cite cases from the English books, or from our sister states, on this point: for the cases in our own reports abundantly establish the proposition, that the malicious intent will be inferred from the falsity and the libellous character of the publication.

In *The People v. Crosswell*. (3 *John. Cas.* 337,) tried before chief justice *Lewis* in 1803, he gave the jury the same direction which was given by lord *Mansfield* in *The King v. Woodfall*, and by Mr. justice *Buller* in *The King v. The Dean of St. Asaph*; that it was no part of the province of a jury, to inquire into, or decide on the intent of the defendant; or whether the publication in question was true, or false, or malicious; but that the intent and the character of the publication, whether libellous or not, would be decided by the court. On a mo-

tion for a new trial, the two great questions were, whether the truth could be given in evidence, and whether the jury were to judge of the intent and the law. Mr. Justice *Kent* delivered an able and eloquent argument in the affirmative of both points; but he did not insist that the intent is not to be collected from the publication itself and the concomitant circumstances. His language was, "If the criminal intent be, in this case, an inference of law, the right of the jury is still the same." The question was not how the intent was to be proved; but who should determine that intent, the court or the jury. Both the questions agitated in that cause, were put at rest by the act of April 6th, 1805, (*sess. 28, ch. 90,*) which declared that the jury shall have a right to determine the law and the fact, under the direction of the court; and that it shall be lawful to give the truth in evidence, provided the publication was made with good motives and for justifiable ends.

It is the settled law of this state, that, to support an action of this nature, malice is essential; and whether there is malice in the publication, belongs to the jury to decide as a matter of fact, under the direction and advice of the court. (*Jurvis v. Hatheway*, 3 *John*, 180.) But how is malice to be proved? In few cases will it be declared. It must be inferred from the libellous nature of the publication, and (unless in certain excepted cases) falsehood, added to the character of the publication, must be considered *prima facie*, evidence of malice.

In the case of *Lewis v. Few*,

(5 *John*. 35,) *Thompson*, justice, in delivering the opinion of the court, says, "Where the act is in itself unlawful, the proof of justification or excuse lies on the defendant; and on failure thereof, the law implies a criminal intent. If a libel contains an imputation of a crime, or is actionable without shewing special damage, malice is, *prima facie*, implied: and if the defendant claims to be exonerated on the ground of want of malice, it lies with him to shew it was published under such circumstances, as to rebut this presumption of law." Again he says, "the accusations being false, the *prima facie* presumption of law is, that the publication was malicious." Judge *Bells*, at the trial of this cause, said, "malice in making the publication need not be proved; it will be implied, if the charge is false."

Other cases might be cited where the same principle is recognized; but they are not necessary; as every case of an exception to the general rule admits and proves the rule itself. Those cases are exceptions, because, from the relation of the parties, the legal presumption of malice is rebutted.

The case of *Weatherston v. Harkins*, (1 *T. R.* 110,) has been cited, to shew that malice must be proved. That was an action by a servant against his former master, for charging him with fraud in giving a character of him. A verdict was taken subject to the opinion of the court. *Wood*, for the plaintiff, stated that it is not necessary in an action for a libel to prove express malice; if it be slanderous, malice is im-

plied. *Ld. Mansfield* said, "I have held more than once that an action will not lie by a servant against his former master, for words spoken by him in giving a character of the servant. The general rules are laid down as Mr. *Wood* has stated; but to every libel there may be a necessary and implied justification from the occasion." *Buller*, justice, said, "This is an exception to the general rule, on account of the occasion of writing the letter. Then it is incumbent on the plaintiff to prove the falsehood of it; and in actions of this kind, unless he can prove the words to be malicious as well as false, they are not actionable."

The case of *Rogers v. Clifton*, (3 B. & P. 587,) contains the same principle.

There are other relations between parties in which malice is not implied from the falsity of the charge; as when it is made in the exercise of church discipline, (3 *John*. 183;) or in the course of legal or judicial proceedings; (3 *Esp. Rep.* 32;) or where an application is made to the proper authority for redress of grievances, or for the removal of an officer, to the person or persons possessing the power of removal. (4 *Serg. & Rawle*, 420. *Thorn v. Blanchard*, 5 *John*. 508.) In these cases express malice must be proved, or no action lies.

Is the case now before us an exception from the general rule? It is contended on behalf of the defendants, that, as the plaintiff was a public officer, and a candidate for a re-election, this case comes within the principle of *Thorn v. Blanchard*, (5 *John*. 508.) I fully subscribe to the doc-

trine of *Ch. J. Parsons* (4 *Mass. Rep.* 169,) that when any man shall become a candidate for an elective office, he puts his character in issue in respect to his fitness and qualifications for the office; that publications of the truth on that subject, are not libellous; and that the publication of falsehood against public officers or candidates deserves punishment.

I know of no decision which goes the length of justifying unbounded slander on such occasions. The case is not new in this court; and we are, therefore, not without precedent to guide us. *Lewis v. Few*, (5 *John*. 1,) is analogous. The plaintiff was a candidate for the office of governor; and the defendant was chairman of a political meeting, whose proceedings were published, and contained libellous charges. It was there contended that the truth or falsehood was not the criterion of liability; but malice; and that should be proved. *Thompson*, justice, says, "It has not been pretended but that the address in question would be libellous, if considered as the act of an individual; but its being the act of a public meeting of which the defendant was a member, and the publication being against a candidate for a public office, have been strenuously urged as affording a complete justification. The doctrine contended for by the defendants' counsel results in the position, that every publication ushered forth under the sanction of a public political meeting, against a candidate for an elective office, is beyond the reach of legal inquiry. To such a proposition I



can never yield my assent. It would, in my judgment, be a monstrous doctrine, to establish, that when a man becomes a candidate for an elective office, he thereby gives to others a right to accuse him of any imaginable crimes with impunity. If a man has committed a crime, any one has a right to charge him with it, and is not responsible for the accusation: and can any one wish for more latitude than this?"

In *Harwood v. Astley*, (4 B. & P. 47,) Ch. J. Mansfield says, "It would be a strange doctrine indeed, that when a man stands for the most honourable situation in the country, any person may accuse him of any imaginable crime with impunity."

The case of *Lewis v. Few* was decided after that of *Thorn v. Blanchard*, which was cited on the argument. The two cases were, of course, supposed not to depend on the same principle, or the decision in *Lewis v. Few* would have been different.

It has been contended that indulgence should be shewn to the defendants as conductors of a press, whose duty it is to communicate to their readers what passes in the legislature; that their relation to the public is one which takes their case out of the general rule; and imposes proof of express malice on the plaintiff. Their right to publish the truth is not questioned; but it is denied that, in the capacity of editors of a newspaper, they have any other rights than such as are common to all. The liberty of the press will not be invaded by requiring the conductors of our presses to stand responsible for the truth of what

they publish. "The liberty of the press," said lord Mansfield, "consists in printing without any previous license, subject to the consequence of law. The licentiousness of the press is *Pandora's box*, the source of every evil."

The language of *Van Beuren*, senator, (11 John. 594,) in reference to what should constitute a libel, seems to me emphatically appropriate to the doctrine of the defendants' counsel: "Such a doctrine, added to the acknowledged licentiousness of the press, would form a rampart, from behind which the blackest scurrility and the most odious criminations might be hurled on private character with impunity; and would, indeed, render the press both a public and private curse instead of a public blessing."

It seems to me, therefore, that the judge rightly instructed the jury, when he said that malice was implied and inferrible from the libellous character of the publication, and from its falsity.

He informed the jury that if the charge was true, that was a complete justification. The question as to its truth upon the evidence, was fairly submitted to their consideration. The jury have, by their verdict, disallowed the justification. On that topic something will be said hereafter. At present it is proper to inquire,

2. Whether the law was correctly stated to the jury on the question of mitigating the damages. And first, as to the reports at *Albany*. It would be sufficient answer to the defendants, to say that they did not rely upon reports.

They did not pretend to give to their readers the substance of re-

ports which were in circulation respecting the plaintiff. They say, *we state what we saw*. Nor was it pretended that the publication was in fact based upon any such reports.

But for myself, I deny altogether the propriety of such evidence after the defendants had made an unsuccessful attempt at justification. The defendants published gross libel upon the plaintiff; and upon being prosecuted, they do not shelter themselves under any reports or misinformation. They do not then seek to offer an excuse for an acknowledged injury. They come boldly into court, and place the libel upon record: where it must receive a conspicuous and indelible charge against the plaintiff. They thus re-publish it in the most formal and solemn manner. They assume by this course of defence an additional liability: and such a defence, when unsuccessful, has always been considered good ground for enhancing damages. I have had occasion in a former cause, to cite what seems to me the unanswerable argument of the late chief justice *Parsons* on this question; (5 *Corcoran*, 499, 500 :) and which I shall therefore not repeat here. The precise point was decided by this court; and subsequent examination has convinced me of the soundness of that decision.

The case of *Larned v. Buffinton*, (3 *Mass. Rep.* 516.) has been cited on behalf of the defendants, which shews that the plaintiff's condition and manner of life, and his character for fair dealing, may be given in evidence, under a plea of justification, in mitigation of damages. It was so

decided in that case, by the court of *Massachusetts*, upon the reason given by *Parsons*, Ch. J., which was, that his rank and general character are in issue, and a knowledge of it may be necessary to a just assessment of damages.

In the same opinion he proceeds to state that certain evidence may be received in mitigation under the general issue, which ought to be rejected under a plea of justification; as that words were spoken from passion, and not maliciously, or through mistake. But if the defendant, when called upon to answer in a court of law, will deliberately declare that the words are true, he precludes all attempt to mitigate the damages from any of those facts and circumstances; because his plea of justification is inconsistent with them. He further stated, that under such a plea, if through the fault of the plaintiff, the defendant at the time of speaking the words, and also at the time of pleading, had good cause to believe they were true, that should be received in mitigation. This doctrine was uncalled for by any thing in the case; and has since been expressly disavowed by the same court, unless the defendant will admit that he was mistaken, and thus afford all the relief he can against the calumny which he has published. (*Alderman v. French*, 1 *Pick.* 1, 19.) In this case, that respectable court reiterate the doctrine laid down in *Woodroff v. Hall*, (6 *Mass. Rep.* 518 :) and deny the authority of the cases of *Leicester v. Walter*, (2 *Cranch*, 231.) and ——— v. *Moor*, (1 *M. & S.* 284.) The same question came again before that court in *Bodwell v. Swan*, (3 *Pick.*

376.) *Parker C. J.* refers to *Alderman v. French*; and adds, that such evidence would answer all the purposes of the defendant, without exposing him to the consequences of attempting to justify, and failing in the attempt. Besides, the plaintiff would have no notice: The defendants in such a case ought to be ready to take the ground openly, that what they have said is true; or they should be ready to discharge themselves of malice under the general issue, in some of the ways which have been allowed as legitimate grounds of defence. As to rumors, it is added, these very stories may have originated in slander; and character could not be protected, if the third or fourth circulator should be able to defend himself, or reduce the damages because he only gave more publicity, and added the weight of his character to calumny which had been originated by others. The rule is admitted, that the general character may be attacked; because that is relied upon as the ground of damages; and the plaintiff is supposed at all times to be prepared to sustain his general character; but not to disprove, without notice, particular facts.

It is true indeed, that in the case of ——— v. *Moor*, (1 *M. & S.* 284,) the defendant was allowed to cross-examine the plaintiff's witnesses, as to reports of the same nature with the slander. This was done expressly upon the authority of *Leicester v. Walter*, (2 *Campb.* 251.) In that case such evidence was admitted upon the plea of not guilty. *Mansfield*, Ch. Justice, declared then that

he could not answer the arguments against it; but it had been decided that if you do not justify, you may give in evidence any thing except the truth of the charge, in mitigation. He did not cite any case. He also relied on the averment in the declaration that the plaintiff had always maintained a good character.

It appears, however, that the English courts intended to confine the rule to cases where there had been no attempt to justify. In *Snowdon v. Smith*, 1. *M. & S.* 286, note (a), the defendant pleaded a justification. *Chambre*, justice, would not permit any evidence of reports such as were allowed in other cases. *Leicester v. Walter* was cited; but he held that it did not govern the case before him, where the defendant by his plea had put the issue upon the truth of the charge imputed. The distinction taken by Mr. Justice *Chambre*, is perhaps the true one, between those cases in which circumstances may be given in evidence in mitigation, and those in which they will be rejected. It is certainly the only one upon which the various cases can be reconciled.

The question as to what facts and circumstances operate in mitigation of damages under the general issue alone, is not free from difficulty; because courts are not uniform in their doctrines on the subject; and different cases admit of different considerations. It seems to have been the rule once, that the truth might be given in evidence upon the general issue, in mitigation of damages. (*Bull. N. P.* 9.) In *Smithies v. Harrison*,

(*Ld. Raym.* 727,) the words imported a charge of adultery with *Jane at Stile*. *Holt*, Ch. J. ruled that the defendant might, in mitigation of damages, give evidence that the plaintiff committed adultery with *Jane at Stile*; but not with any other woman. This was so ruled at *nisi prius* about 1701. It is to be presumed that the practice was not uniform; for in *Underwood v. Parks*, (*Str.* 1200, *A. D.* 1744,) Ch. J. *Lee* refused the evidence, saying that at a meeting of all the judges upon a case that arose in the common pleas, a large majority of them had determined not to allow it for the future; but that it should be pleaded, whereby the plaintiff might be prepared to defend himself, as well as to prove the speaking of the words; that the rule extended to all sorts of words; and not barely to such as imported a charge of felony. Such is the rule in this court. (14 *John.* 233.) In *Shepard v. Merrill*, (13 *John.* 477,) *Spencer*, justice, says, no principle is better established, than that the truth of slanderous words cannot be given in evidence under the general issue, either as a defence, or in mitigation of damages. In that case, the defendant had offered in an action for words imputing theft, to prove suspicious circumstances in relation to the charge complained of; but the evidence was rejected.

At present the rule in *England* seems to be, that, in actions for words, the defendant may give in mitigation of damages, any evidence short of such as would be a complete defence to the action, had a justification been pleaded,

(*Starkie on Slander*, 406.) He may also give evidence of the plaintiff's general bad character in mitigation of damages. (1 *Ph. Ev.* 146, and cases there cited.)—The same rule prevails here as to general character. (2 *Cowen*, 813, 14.) This is upon the principle that a person of disparaged fame, is not entitled to the same measure of damages, as another whose character is unblemished. It is remarked in 1 *Ph. Ev.* 147, on the authority of *Snowdon v. Smith*, that such evidence is not admissible where the defendant by his plea, puts in issue the truth of the charge imputed. But by a *nisi prius* case, *Kirman v. Orley*, mentioned in note (4) to that page, it seems that bad character generally may be shewn under any state of pleadings; I presume, however, no circumstances of suspicion against the plaintiff as to the particular slander, except under the general issue only.

After a careful examination of the authorities cited, and many others, I concur perfectly with Mr. *Anthon*, as far as he goes, in his note to the case of *Else v. Ferris*, (*Anthon N. P.* 25, note (c).) The action is founded in actual or presumed loss of the plaintiff, arising from the malicious publication of the defendant. If the charge made by the defendant is true, however malicious, no action lies. Upon an indictment, indeed, the defendant should shew that the publication was made from good motives and for justifiable ends; but in a private action at the suit of the party aggrieved, I consider the motives to be out of the question. When the

publication is libellous, the plaintiff need not shew either actual damage to himself, or express malice in the defendant. Both are necessary presumptions. The defendant must then justify or excuse the publication, or a recovery must be had against him. He may shew in evidence, under the general issue, by way of excuse, any thing short of a justification which does not necessarily imply the truth of the charge, or tend to prove it true ; but which repels the presumption of malice arising from the fact of publication. And, under any circumstances, he may shew that the plaintiff's reputation has sustained no injury, because he had no reputation to lose. When the defendant undertakes to justify because the publication is true, the plea, or, which is the same thing, a notice of justification, is a re-publication of the libel. It is an admission of the malicious intent with which the publication was first made. Hence it is the uniform practice of this court not to allow such a plea to be withdrawn, without an affidavit of its falsity to be put upon the record : And upon the trial, the jury are instructed, that if the plea is false, it is an aggravation of the offence, and calls for enhanced damages. Such a state of the case, and such an instruction to the jury, is totally inconsistent with the idea of mitigation resting upon the absence of malice. That is confessed upon the record. When, however, the defendant does not, by the pleadings, admit the malice, then he may excuse his conduct by shewing such circumstances as disprove a malicious intent. A

variety of instances are given in the books. But as, under the general issue, the truth cannot be given in evidence, either in justification, or in mitigation of damages, it seems to follow upon principle, that circumstances tending to prove the truth are equally inadmissible. There is an inconsistency in admitting weak evidence, and excluding that which is conclusive. Beside, as to want of notice ; the plaintiff must be equally surprised by having his guilt proven by suspicious circumstances, as by positive proof.

Evidence of the plaintiff's general character is proper, because, whether the defendant has acted maliciously or not, can make no difference, in point of injury, to a character that is so bad, as to be incapable of receiving injury.

Such, I think, are the conclusions to be drawn from adjudged cases and approved principles : and if warrantable, they will aid us in rightly determining upon the correctness of the judge in the directions to the jury. He told them that the defendant might not give evidence of general character, as to temperance, in mitigation, unless of the same quality and degree charged in the libel.

The defendants had published an outrageous libel upon the plaintiff, if false. When prosecuted, they do not disavow the malice, and claim exemption from damages by bringing themselves within some of the exceptions to the general rule as to the implication of malice. They come into court ; and when they may be supposed to have ascertained whether they were mistaken in the first publication, deliberately assert upon record that

the publication is true ; and that the plaintiff was frequently intoxicated when presiding in the senate. So far then from disclaiming malice, they virtually admit it in the face of the court. They are clearly excluded, therefore, from the benefit of any defence based upon the absence of malice. If the evidence offered, of general intemperance, was to operate in favour of the defendants, by raising a presumption that the plaintiff was actually in the situation described in the libel, then it was clearly improper. The justification must be as broad as the charge. If the evidence was offered in mitigation, to repel the presumption of malice, then they were not entitled to it, because they had admitted the malicious intent by the notice. The evidence then could have no possible legal effect, unless it was to show the plaintiff's general bad character. His general character was in issue ; and to that should the evidence have been pointed ; not to any foibles, or failings or vices, which may derogate from a good general moral character. The plaintiff had courted an investigation into his general character ; which had been declined ; and, of course, that was admitted to be good. The general character should form the subject of examination. The character of the plaintiff comes in collaterally. It is not distinctly put in issue. To confine the inquiry to the particular character of the party, in the capacity in which he has been libelled, would be, in some measure, infringing on the well settled rule, that under the general issue, the truth of the words cannot be given in evidence in mitigation of

damages. (*Per Thompson, J. in Foot v. Tracy*, 1 John. 45.) The plaintiff's character at large, or in gross, if I may be allowed the expression, was in issue ; and as such might be attacked ; but not in detail ; as by shewing it defective in some particulars. As an attack upon the general character, it would be equally improper to prove the plaintiff intemperate in the use of spirituous liquors, as to shew that he was in the habit of playing cards, or libidinous, or was reputed a liar, or the devotee of any particular vice. The question to the witness should be, what is the plaintiff's general character ? If the witness says it is bad, the defendant has attained his object. Should the plaintiff call on the witness to specify the grounds of his opinion, he would have a right so to do : but it can never be permitted to the defendant to prove the plaintiff's character bad by attacking it in detail or by piece-meal. That would be like provoking particular facts against a witness whose character is in issue. This is never allowed.

In no point of view, therefore, was the testimony admissible under the pleadings, even without the qualification of the judge. Had such evidence been offered under the general issue alone, with a view to show the court and jury that there was no malice in the defendants, because in reality they only repeated what every one else did, and what the plaintiff's conduct led them to believe was the truth, a very different question would have been presented. They would then have brought themselves within some of the recent

English cases; which now have no direct application to this case, because the question arose under a totally different state of the pleadings.

3. As to the receiving of improper testimony, I think there was none. The journals were shewn to have been printed by the printer to the state, and to have been laid upon the tables of members, where any error would probably have been corrected. They were proved by the clerk. This was certainly, *prima facie*, enough. A printed copy of public documents, transmitted to congress by the president of the *United States*, and printed by the printer to congress, has been holden to be admissible as evidence.

As to the rejection of proper testimony; that is necessarily negatived in the view which I have taken relative to the admissibility of reports and character.

4. Was the verdict against evidence? Whether the libel was true or not, was the question before the jury. The evidence was contradictory. It was the province of the jury to weigh it; and

the court ought not to set aside the verdict unless in a clear case.

5. Are the damages excessive? In the case of *Tillotson v. Cheetam*, (2 *John*. 63,) the recovery was \$1400 in favour of the secretary of state, against a printer, for a libel imputing to him corrupt conduct. The court said, "We cannot interfere on account of the damages. A case must be very gross, and the recovery, enormous to justify our interposition on a mere question of damages, in an action of slander." The same point was so decided in *Coleman v. Southwick*, (9 *John*. 45.) and *Southwick v. Stevens*, (10 *John*. 443.) These cases were between editors and printers of newspapers. In one the verdict was \$1500; in the other \$640.

In actions for libel and for other defamation, unless some rule of law has been violated, or there has been some improper conduct by the parties or jury, a new trial will not be granted. (3 *John*. 180. 9 *id.* 36. 15 *id.* 493.)

The motion for a new trial must be denied.

New trial denied.

### TRIAL FOR PERJURY.

During the present term of the circuit court, in this city, (St. Louis), came on the trial of *John Brewer*, indicted for perjury, committed in the case of the *State vs. Patrick Soye*, tried at the last term. Brewer was found guilty by the jury who were absent but a few minutes.

THE STATE vs. JOHN BREWER.

*Indictment for perjury, alleged to*

*have been committed on the trial of Patrick Soye, for the murder of James Reddit.*

In this case, the prisoner, on being brought to the bar of the court, and demanded if he had any thing to say why the court should not now proceed to pass sentence of death upon him, agreeably to law, by his counsel objects and states—

1st. That under the laws o

this State, murder is not a *felony*, nor is any grade of homicide.

2d. That the indictment is defective, in not stating specifically, and by way of a substantive averment, that there was a trial for *felony*.

3d. That the punishment to be inflicted is to be graduated by the standard of what is due to the particular crime, from which the accused attempted to discharge the person on whose trial he was sworn.

Reference has been made to the British books for the definition of *felony*. It has also been urged, that as the law in force at the time of adopting the constitution, had declared certain crimes to be *felonies*, there was something for that instrument to operate on in the use of the term *felony*—that, as in the revised code, certain offences are still declared to be *felonies*, and neither murder, nor homicide of any grade, is so called, that, therefore, murder in this state is not *felony*.

On the first point, the court remarks, that the term *felony* has been adopted by us from the jurisprudence of England; and, probably, into that from the Teutonic or German laws and institutions. In this country, its signification is different from what it is in England, and there, probably different from what it was in the Teutonic or German laws. In the latter, the *fee*, that is the fief or land, was only forfeited—but in England, both the *fee* and goods, in some cases are forfeited. It was adopted in England as a *technical* term, and in the course of time its meaning

was, probably, changed as above specified. Mr. Justice Blackstone says, that, “by long use we began to signify by the term *felony* the *actual crime committed*, and not the penal consequence.”—Again, he says, “the idea of *felony* is indeed so generally connected with that of capital punishment, that we find it hard to separate them; and to this usage the interpretations of the law do now conform; and, therefore, if a statute makes any new offence *felony*, the law *implies* that it shall be punished with death.” He, therefore, uses it as a general term, including all capital crimes below treason. In this country, it has also been adopted into our statutes and law language. It will be found to have been employed several times in the constitution of this State, (see art. 3. sec. 8, and 23; also art. 13, declaration of rights, sec. 15), and very often in our statutes, (see revised code, title, crimes and misdemeanours, chap. 1 and 2.) By an examination of these references and the constitution, it will be seen, that it has become a term in common use with us, and means something very different from what it did in England. This court is, therefore, now called on for the first time, as it is believed, in this country, to expound the law in this particular, and to define the term *felony*, under our constitution and laws.—And I am of opinion that the term *felony*, in this country, means *all crimes or offences above the grade of misdemeanours*. Mr. Christian says, it is used in England in contradistinction to misdemeanours, and that misdemeanours comprehend all indictable offences



which do not amount to *felony*. I, therefore, consider the use of the term in our system of jurisprudence, as *descriptive* of the offence, or its grade, without any reference to its punishment or consequences. Hence in the use of the term *felony*, in the 56th section of the "act concerning crimes and punishments," on which the indictment is founded, I am of opinion, that the legislature meant *all crimes wherof the punishment is death*, and such others as are expressly declared to be felony by that act, and perhaps, I may go further, and say, all such wherof the punishment, by the common law, was the forfeiture of goods or lands. Such I find to be the fact in Virginia: as may be seen by Tucker's Blackstone, page 95, note (1.) The learned judge there remarks, that, "although forfeiture of lands, as well as of goods, is abolished in Virginia, yet this does not alter the nature of *felony*: but all offences which induced a forfeiture at the common law, or which have *been declared capital* by statute, still remain felonies, as if the consequences were still the same.

On the second point I will only remark, that felony not being punishable in this state with *forfeiture*, it becomes unnecessary, in my opinion, to charge a murder, for example, to have been *feloniously* committed, and that *murder* here, as well as in England, necessarily means *felony*. It will hence follow, that, in my opinion, it was not necessary to aver in this indictment, that the trial of Soye, for the murder of Reddit, in which the perjury was committed, was a *trial for a felony*. It will

be observed, however, that this indictment does state, that Soye was *tried* for the *felonious* murder of Reddit.

On the third point, it is understood to be urged, that it is not from a charge of murder, in its broadest and most general signification, that the prisoner is charged with having intended to discharge Soye, but only the particular act charged in that indictment, as a *murder*—that as every indictment for murder is necessarily an indictment for *man-slaughter*, it will follow, that one for man-slaughter *only*, will never be preferred under this law, because, if perjury be thereon committed, the punishment will not be death.

It will at once be observed, that the statute in this case, declares, that on conviction, the party shall suffer such punishment as is due to the *crime with which he has discharged, or attempted to discharge*, the other, and not the crime of which the party on trial may be convicted. If, as is contended on this point, it was the intention of the legislature, that the prisoner should suffer, on conviction, only such punishment as Soye has been sentenced to receive, on his conviction for man-slaughter, instead of murder, it is inconceivable why such different language has been employed by the legislature. Indeed, it will necessarily suggest itself to the mind of every one, that the charge of murder may be reduced to man-slaughter, by the perjury itself, and that the party would not only have a powerful motive for reducing the charge, but would, in that event, enjoy the benefit of the perjury. If the intention of

the legislature was what is contended for by the prisoner, it was easy for them to say so. But how very different is the language of the act. The evil resulting, in practice, from construing this statute agreeably to its plain meaning, and the force and effect of the terms employed, is one that this court cannot control: and it would be nothing less than a direct act of legislation in this court, to say, that the punishment which the prisoner shall suffer, on this indictment, shall be such as is prescribed for the crime of manslaughter, whereof Soye was convicted—whereas the law expressly says, it shall be such as is due to the crime with which he *discharged or attempted to discharge*, Soye. It is needless to add, that the punishment or murder being death, under this construction of the law, that of the prisoner at the bar must also be death.

## SENTENCE.

*John Brewer*: You have been indicted for perjury, and found guilty. The court has heard the objections made by your counsel, why sentence should not now be pronounced against you. It has listened to and examined them, with all the attention and ability in its power. It has considered them with a full knowledge of the awful consequences to you, should they be overruled, and with a deep and appalling sense of its own responsibility

. You have had able counsel assigned to you, who have distinguished themselves in your defence. Every thing that talents and ingenuity could effect, has been attempted in your behalf; but such has been the irresistible

strength of the current of evidence and law against you, that both the jury and the court have been constrained to pronounce you guilty. Twelve of your fellow citizens have passed on the question of your guilt or your innocence, and it surely cannot yet have escaped your recollection, that after the very able effort of the counsel in your behalf, they required but a few moments to pronounce you guilty. It is needless to say from how much responsibility it would have relieved the court, if the jury had found you not guilty, and how much pleasure it would have afforded the judge, to have been relieved from this most unpleasant duty, which he has now to perform.

Your counsel, as they have repeatedly declared to the jury, have in vain sought for your motive in the committing of this crime; and, although by the laws of your country you have been declared guilty, it is possible, in the All-Seeing eye of your God, you may not be so. It is my most earnest wish, that this may be the case; but, if not, your motive is between him and yourself; and in the name of the violated laws of our common country, I now call upon you to prepare to die. You are now on the brink of the grave: You are on the borders of eternity; you are now rapidly hastening to that unknown land, “from whose bourne no traveller returns.”

If you in reality be guilty, in the sight of God, as well as man, let me most earnestly exhort you to repent. The crime of perjury, of which you have been convicted, is justly described in the indictment, as being committed “*to the great*

*displeasure of Almighty God."* In the oath you took, you called on him to help you to speak the truth. If, instead of doing this, you have, as the jury have said, *falsely, wickedly, wilfully, maliciously, and corruptly*, committed perjury, you are about to be called to a dreadful account. At this awful moment, when you are probably about to be for ever separated from your wife, your children, and every other endearing object in this world, it becomes you to pause and reflect; it becomes you to remember into whose presence you are about to appear. In the eternal records of that tribunal, your guilt or your innocence is already registered.

If you have by your own act, precipitated yourself before its bar, without a wicked and wilful intention to commit perjury, I do most deeply feel for you; but, if you have coolly and deliberately, and in the presence of that Deity whose aid you invoked, in the evidence you gave on the trial of Soye, sworn falsely, with the in-

tention to acquit him, unlawfully, of the crime of which he was charged; and more especially, if you have done this from other motives, which the court will not now name, your case becomes almost too horrible for reflection. It is far from my wish to insult you, or even unnecessarily to wound your feelings, in the sentence which the law calls on me to pass on you. Let me, therefore, again warn you to prepare for death—and may you before the bar of the *great judge*, he, who shall judge both you and myself, receive pardon and mercy.

The sentence of the court is, that you be remanded to the jail from whence you came, there to remain until *Thursday* the twenty-eighth day of this present month; on which said day you are to be taken in the custody of the sheriff, from said jail to the place of execution, and there by said sheriff, between the hours of twelve and two o'clock of that day, *be hanged by the neck until you are dead*.

### CIRCUIT COURT OF JUSTICIARY.

PERTH, *Sept. 22.*

This trial having excited the greatest possible interest, the Court was crowded at a very early hour, and they considered themselves fortunate who could gain an admission upon any terms.

The court having met—Hon. Lord Gillies on the Bench,—the case of His Majesty's Advocate against David Landale, merchant, in Kirkcaldy, was called. Mr. Landale, who was at large since the unfortunate rencontre, appear

ed and took his place at the bar, ported by Provost Hadden, of Aberdeen, Mr. Money Penny, of the Customs, and Messrs. Spears, sen. and jun. of Kirkcaldy. The criminal letters were then read, charging the said D. Landale with the crime of murder, in so far as he did, on the 22d of August last, *wickedly and maliciously* challenge George Morgan, jun. then agent for the Bank of Scotland, in Kirkcaldy; and on the 23d of same, on the farm of Car-

denbarns, parish of Auchterderran, and county of Fife, wickedly and maliciously discharge at the said George Morgan, a pistol loaded with ball, whereby the said George Morgan was mortally wounded. Mr. Landale pleaded "not guilty."

Mr. H. Cockburn, for the prisoner, said, that although he admitted the relevancy of the indictment, he considered it to be his duty to state that it was not calculated to put the jury in possession of the whole facts of the case, which it was necessary they should be more particularly acquainted with, to enable them to give a proper verdict. Mr. Landale, the panel, was a merchant in Kirkcaldy, where his reputation as a mercantile man was of the first description; and this was of a most material importance to the decision of the case. Of this the most satisfactory evidence would be found, were it necessary to prove it, in the very letters of the deceased. He (Mr. Morgan) on whose ashes he would tread as lightly as possible, was agent for the bank of Scotland in Kirkcaldy, and, as such, he need not say it was his duty to preserve inviolable secrecy with regard to all matters entrusted to him. Such was the situation held by the man now no more, when he committed that error which led to the melancholy catastrophe of which they were now to judge. How did Mr. Morgan conduct himself towards the prisoner? Did he did not disclose the panel's most private transactions, and that in a manner that it shook his credit with all?—even his oldest friends were affected by it, and in some instances

withdrew their countenance. Under these circumstances, Mr. Landale wrote to the Bank, complaining of that conduct. The Bank, whether rightly or not he would not pretend to say, communicated that letter to Mr. Morgan, who, as agent for the Bank only had been complained of, wrote a letter, accusing the prisoner of "falsehood and calumny." This letter was couched in language seemingly framed for the very purpose of provoking a duel, and to prevent misconception he signed it, not as agent for the Bank, but, "George Morgan, Lieutenant, half-pay 77th Foot." Several other notes passed between the parties, and the result of all was an attempt, which succeeded but too well, on the part of the deceased, to compel the prisoner to send a challenge. This was done deliberately, for he took advice, he having been informed that the challenger on trial, was certain of banishment, therefore he (Mr. Morgan) must manage to get the prisoner to give the challenge. This advice he followed, and caused it to be circulated that he intended to insult Mr. Landale in the street. Being aware of what would follow, he put his pistols in order, and cast balls, and this too before any meeting took place or challenge was given. In a few days the deceased did meet Mr. Landale, and made his threat good, for, without warning, or immediate provocation he struck the prisoner. A challenge followed; it could not then be avoided. But the moderation and good temper of the prisoner did not even here leave him; for prior to the meeting, on the way to the field, when

placed in that situation where a man's conduct is most liable to misconstruction, he had still courage, and it required courage, to say that he would accept of an apology. But that offer was declined by the deceased; not by his second for him, but by the man who struck the prisoner for the purpose of provoking a duel. No alternative remained; the parties met, they fired, and Mr. Morgan ceased to live. Such were the facts of the case, such had been the conduct of the prisoner, and upon that conduct they were now called upon to judge.

Special defences were given in for Mr. Landale to the following effect:—

The defender admits generally that he had a quarrel with Mr. George Morgan, the result of which he sincerely laments. But Mr. Morgan brought that quarrel, and all its consequences, upon himself. He was the agent of the Bank with which the defender had for a long course of years transacted his most confidential business, and was bound, especially in a period of mercantile alarm, to preserve the most scrupulous secrecy with respect to the circumstances and credit of an employer who trusted to his honour. But instead of this, being of a rash and quarrelsome habit, he not only spoke of the defender's affairs to strangers, but attempted to ruin his credit by statements and insinuations, which he was not called upon to make, and which he knew or ought to have known were utterly groundless. On discovering this, the defender wrote to his constituents in terms which he conceived, and still

humbly conceives, were fully warranted by the facts. Upon this, Mr. Morgan formed the deliberate determination, contrary to the advice of his friends, to assault the defender; and, after a pause which was more than sufficient to show him the atrocity of that proceeding, and to set its necessary consequence fully before him, he carried this resolution into effect, by striking his adversary on the public street. This left the defender no course but one to follow; but to the very last he was always willing to accept of an apology; which was going further towards a reconciliation than most men in the defender's situation would have thought proper or safe.—Even this very moderate satisfaction, however, was refused; after which, if Mr. Morgan fell by the hands of the defender, this was a catastrophe for which he had himself alone to blame.

The following witnesses were then called:—

Mr. Wm. Milne, manufacturer in Pain-head.—I know the prisoner; I knew Mr. Morgan; I received a letter from the prisoner on the 22d of August, containing a challenge; it was in these words:—"Mr. Morgan has just now struck me with his umbrella, in passing Mr. Cumming's shop. I merely called him a cowardly rascal, and left him. There is no alternative left me but to challenge him, which I have long made up my mind to do, and enclose one that you may deliver immediately with all secrecy for my honour." I went to Kirkcaldy and delivered the challenge to Mr. Morgan; he said, certainly, by all means." Mr. Morgan said, there need be

no delay, as his pistols were provided and ready. He (Mr. Morgan) took them from under a table and placed them before me.—The same evening Lieutenant Milne called on me; he came on the part of Mr. Morgan, requesting a meeting in the evening, to which I agreed, and met him accordingly. Some discussion took place as to the place of meeting, in consequence of which I left Milne under the conviction that the parties would meet at the time and place stated. I then went to Mr. Landale and arranged for the meeting. I called on Mr. Landale next morning at half past five. A carriage was in the neighbourhood, into which Mr. Landale, Mr. Smith, a surgeon, and I entered; we then proceeded to the place of meeting, where were Mr. Morgan and Lieutenant Milne. Having got into the field, I asked Lieutenant Milne, if he had any communication to make by way of apology; Mr. Morgan hearing this, called out, “No apology;” so far as I heard, Mr. Landale did not use similar expressions. The parties then took their ground. Just as they had taken it, Dr. Johnson came running from the wood, and begged them to stop. I explained the matter, and he retired. The pistols were then given to the principals, and I explained that the word was to be, “Gentlemen are you ready? Fire!”—At the word “Fire,” the parties were to raise their pistols. The word was then given. Mr. Morgan raised his pistol at the word “ready;” I called out “Mr. Morgan that is not fair—drop your pistol till the word ‘fire’ is given.” Mr. Mor-

gan lowered his pistol; the word being again given, both raised their pistols together, and fired so exactly together, that I was not conscious of hearing two shots. Mr. Morgan on receiving Mr. Landale’s shot, did not fall immediately. He stood some seconds, then fell, and died instantly. The panel and I immediately quitted the ground.

Cross-examined by Mr. Jeffrey.—I am aware that Mr. Landale received intimation four or five days before, that he would be struck by Mr. Morgan. Mr. Landale told me that if so, he could not avoid challenging Mr. Morgan. When on my way to meet Milne in the evening, I called on Mr. Landale, and informed him of what had passed with Mr. Milne in the forenoon; Mr. Landale authorized me to receive a written apology; but Milne said that Mr. Morgan would make no apology; but on his way to the ground I observed that I meant to ask Lieutenant Milne whether he had authority to make an apology. Mr. Landale acceded to this, and said that a verbal apology on the field would do, if Mr. Morgan would commit it to writing afterwards, as that all he wished was satisfaction for the injury received.

Lieut. Milne, R. N.—I was acquainted with the late Mr. Morgan. At four o’clock, on the 22d of August, he came to me in a post-chaise. Mr. Morgan said he had a quarrel with the prisoner, and would be glad if I would arrange the business. I agreed to go; when on the road Mr. Morgan explained the circumstances, but did not mention till we reached Kirkcaldy that he had struck the

prisoner ; on this I had great objections to Mr. Morgan's second, and expressed my disapprobation of his conduct ; Mr. Morgan entreated me as a brother officer, and I agreed, in hope of getting matters amicably arranged. I proposed to Mr. Morgan, to make an apology conditionally, but that he refused. Mr. Morgan desired me to go to Mr. Milne ; I went ; Mr. Milne seemed anxious to have the matter made up. As I had got into the business so hurriedly, I had no time to consider of it, and therefore requested Mr. Milne to call in the evening ; he did so. I then proposed that, " on the supposition the parties were equally wrong, the parties should meet half way, and shake hands." This was declined. Next morning the parties met on the ground. [The other part of his evidence was merely a corroboration of what was stated by the preceding witness to have taken place.]

Examined by Mr. Jeffrey.—Mr. Landale took aim ; every thing was quite fair.

Mr. James Cumming, bookseller, Kirkcaldy.—I am acquainted with the parties. The day before the duel, Mr. Morgan came into my shop, and after a little conversation, Mr. Landale passed the door ; Mr. Morgan immediately went out and struck Mr. Landale a blow over the shoulders with his umbrella, saying, " Take that, Sir." No quarrelling took place immediately previous. Mr. Landale came into the shop and said, " I trust you observed what passed." Mr. Morgan then popped his head in at the door and said, " By G-d, Sir, you shall have more of it." Mr. Landale then

went out, and in less than two minutes, Mr. Morgan returned and said, " By G-d, James I have never told you of the shocking usage Mr. Landale has given me and my brother ; but just hear this letter." I replied, " It is nothing to me what your usage has been ; but what you have done just now is wrong."

Wm. Todd, blacksmith in Kirkcaldy, was sent for by Mr. Morgan about a fortnight before the duel, to take a ramrod out of his pistol ; received also orders to make a number of bullets to fit the pistols. I made 33 bullets for him.

Dr. Johnson saw Mr. Morgan the night before the duel, and was asked by him to be at Torban next morning by six. I went, and found the parties there, and their seconds. I recommended, if possible, to try to effect an arrangement ; this not being done, I retired. I heard one shot, and my name being called, I went up, and found Morgan on the ground, but alive. A shot had passed through his body, entering on the right side, and coming out on the left side.

Dr. Smith, of Kirkcaldy.—I accompanied Mr. Landale to the field. I heard a shot, and saw Morgan fall. He died within a few seconds. The wound was the cause of death.

Cross-examined.—I heard Mr. Landale say he would receive a verbal apology, if afterwards reduced to writing. Mr. Landale appeared to me to have no object but to repair the injury his character had sustained.

This closed the evidence for the prosecution.

The following witnesses were called for the defence :

Mr. James Fleming, merchant and accountant in Kirkcaldy. I am well acquainted with Mr. Morgan. Saw two letters from Morgan to Landale (one of which he recognized in Court.) Deceased said he was dissatisfied with a letter received from Mr. Landale respecting some difference about the bank. He told me that in consequence of a second evasive letter, he should put his cane across Mr. Landale's shoulders the first time they met. He also said that he intended to challenge him, but was afraid to give the challenge, as he understood that by law a challenger was liable to transportation—he therefore would take the other course, that of insulting him. I had once or twice some confidential conversation with Mr. Morgan respecting Mr. Landale, about a 5000*l.* cash account granted by the bank to Mr. Landale, and something about a loan of 3000*l.* wished to be raised by Mr. Landale.

Robert Stocks, Esq. of Abden. —I am well acquainted with Mr. Landale, and have been so for 25 years. I consider him a most orderly and correct gentleman, and never found him disposed to quarrel. Some months before the duel, I had a conversation with Mr. Morgan about a cash credit Mr. Landale had obtained from the bank of 3000*l.* Mr. Morgan spoke of Mr. Landale having attempted to raise other loans, particularly on a blankfield. This was a voluntary communication. Mr. Morgan continued to say, "I wish all may be well with Mr. Landale." This excited suspi-

cions in my mind which did not exist before, as to Mr. Landale's solvency and credit. In consequence of this communication, I caused 1000*l.* to be taken up from Mr. Landale, which belonged to my brother's family.

Gavin Hadden, Esq. Provost of Aberdeen, had been long acquainted with Mr. Landale, and found him a man of the greatest probity and honour, of mild and gentle manners, and most unlikely to provoke quarrels.

Walter Fergus, Esq. of Stratmore, late Provost of Kirkcaldy, had known Mr. Landale from his infancy. Esteemed him as a man of strict honour and every way a gentleman. He associated with him all his life, and scarcely ever saw his temper ruffled. There had been rumours against Mr. Landale's credit these two or three months past ; before that it was quite unimpeached.

Mr. Moneypenny, of the Custom-house, Kirkcaldy, has had occasion to know Mr. Landale as a gentleman of much mildness and honourable feeling.

Mr. Bennet, one of the secretaries of the Bank of Scotland, identified a letter received from Messrs. Morgan by the Bank of Scotland. The letter recommended Mr. Landale as a gentleman of undoubted credit and usefulness as a merchant and manufacturer : considered his business as a desirable object.

Mr. Wood then addressed the jury for the crown.

Mr. Jeffrey made an eloquent and elaborate defence for his client. That the bare fact of taking away life in a duel constituted murder he would deny. He deni-



ed that it could be law, in so far as it was inconsistent with the views and opinions of the strictest moralists, with the law itself, and no less so with the practice of the law. On the contrary, it was a remedy for injuries for which law tribunals could afford no redress. It was no doubt a lamentable remedy for those who became its victims, but it was viewed as a comparatively light one in the practice of the law.—While the more honourable and refined species of feelings exist in the bosom, quarrels and grievances will sometimes unfortunately occur, which no law is calculated to redress, and under which no man could find existence tolerable. In history we find, that during the ages of barbarism such feelings gave rise to cruel feuds and assassinations, and were greatly to be deprecated. In our more cultivated and enlightened days it was seldom, except in cases of peremptory necessity, that decision of differences by shedding blood was resorted to; and then it is conducted generally with such frankness, openness, and gallantry, as to do away in a great degree that imputation of malice which is necessary to constitute the positive crime of murder. The law against it had been abrogated, in practice at least, and indeed it was no longer. At one time it might in the 14th and 15th centuries, from the romantic spirit of chivalry which prevailed, rencontres of the kind were so frequent and common, that almost every state in Europe framed statutes for its suppression. But the practice of duelling was now remarkably rare. During the reign of his late ma-

esty, not more than 200 authenticated duels had taken place in England, Scotland, and Ireland; for these, only from 20 to 23 trials had been instituted, and not one conviction had ensued, except in a very few instances, in which it evidently appeared that the practice was abused by making a challenge a pretext for accomplishing murderous purposes. During the last 150 years, not one conviction had taken place in Scotland. Now our blood was not colder, nor our sense of honour more obtuse, than that of our neighbours; but the reason was, that the investigations uniformly terminated in the development of circumstances rather honourable than otherwise to the survivors. They were therefore acquitted. Thus far he had enlarged as to the practice of the law; he should again refer to the subject as it affected morality. He was able to adduce the opinion not only of the strictest moralists, but even of men no less eminent for piety, in vindication of the practice in a moral point of view. He would enumerate Dr. Johnson, the greatest moralist of his age, and equally remarkable for his religious austerity and strict sense of propriety—Lord Kaimes, whose authority and reasoning on such subjects could scarcely be called in question, and who had said that injuries will be inflicted and sustained which, till human opinion be altered, no law can redress; and in which the injured party is justified in having recourse to challenge for reparation to his wounded feelings—Dr. A. Ferguson, whose conduct uniformly comported with pure religion and strict moral principle; who was

appointed to the ethical chair, for the purpose of forming the minds and morals of the young, and rendering them the ornaments of society. All these distinguished individuals held the same opinions. The inference of the murder in such cases was quite irconcilable alike with the fundamental and improved principles of law. An act committed out of necessity, from force, from intimidation, or under mental aberration, could not be construed as a crime. Unless the facts could convince the jury that the deed was maliciously committed, it was of no consequence what his learned friend opposite might denominate law. Neither was it enough that the evidence might bear out his individual notions of law; but it must be such evidence as could satisfy the jury. It was ridiculous to say that the law constituted the crime, and that the fact implied malice:—it was evidence of malice only that could confirm the fact, and render it criminal. He had spoken of the paucity of convictions; and he could assure them, that it was not on account of the ignorance of juries, or their disqualification to discriminate, that this had arisen. Juries, on cases of duelling in this country, had been composed of men rather of superior intellect. The practice of the law, therefore, notwithstanding the doctrines of judges or men of law, had been universally established by intelligent, discriminating and conscientious men, in opposition to the principle laid down, that killing in a duel inferred murder, unless accompanied by circumstances proving deadly malice. The learn-

ed gentleman then quoted several instances, from that of Glengary, in 1798, down to the affair between Mr. Stuart, of Duncarn, and Sir A. Boswell, in 1822. In all these cases the survivors were acquitted, and in most of them by the recommendation of the Judges. In one of these, the present Lord President had said, "Juries have formerly exercised their discretion; so may you, and find a similar verdict, if you see cause from the circumstances." He would call upon the Jury to give this the weight it was entitled to: this was not the opinion of a panel's counsel, expressed in a pleading from the bar, but the recommendation of a Judge from the bench.

Lord Gillies.—Gentleman of the Jury—I shall say little to you on this occasion, not because I think it an unimportant case, but because so respectable a jury as I now see before me can need little aid from me. I may say, that nothing I mean at present to address to you is intended to weaken the effect of what you have just heard from the counsel for the panel. Here we have nothing to do with the laws of honour; we have to consult the law of the land only, but that law is a law of reason, and liberally accommodated to human feelings. The general rule of the law is, that killing in a duel is murder; but that admits of qualifications, and I consider that the panel at the bar is within the qualified rule of the law. You cannot yet have forgotten, gentlemen—if you can ever forget it—the opening statement so powerfully made for the prisoner; and and here I am bound to say, that in no case which ever came under

observation could less blame be attached to the survivor in a duel, than in that of which the facts are now before you. The character you have heard testified to, by so many respectable and intelligent gentlemen this day, is as high as is possible for man to receive; and I consider that throughout this affair the panel has acted up to it. His whole demeanour has been manly, temperate, and fair. Mr. Landale did not challenge on receiving the first insulting letter, not thinking the laws of honour applicable in such a case; but his antagonist thought differently, and evidently forced on the duel. In all the four cases mentioned by Mr. Jeffrey, the juries acquitted the survivors, although in all these the fact of killing in a duel was clearly proved or admitted. The defence made at each of these cases I think was, that a malicious purpose ought to be clearly proved; and so it is laid here in four different parts of the indictment, but in no instance has that been substantiated. You have clear and undeniable evidence of the reluctance of the panel to fight, and that his great and sole object was the reparation of his honour and character. It has been said, indeed, that from the fact of killing, the law presumes malice;

but this is a presumption which may be rebutted by evidence, and of the sufficiency of that evidence in that case, you, gentlemen, must be the judges. The great provocation endured was another alleviating point. The insult sustained led to the contempt and scorn of the world; the provocation was permanent and continuous; and the wound thereby caused, the lapse of time would only augment and render more intolerable. I will not trouble you farther than to say, that in all the cases quoted, if the juries were just and reasonable in acquitting the prisoners, I do not see how the panel at this bar can justly and reasonably be condemned. Gentlemen, this is all I have to say. If you think this case falls under the general rule, you may convict; if you think it falls under the milder construction adopted by former juries, you will return a verdict of not guilty.

The Jury without retiring, immediately and unanimously found the panel *Not Guilty*.

His Lordship congratulated Mr. Landale on the result of the trial, and expressed much pleasure in the duty which now devolved upon him, of dismissing him from the bar with a character so honourable and unsullied.

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#### DISTRICT COURT, S. D. NEW-YORK, Aug. 1826.

BURCKLE BROTHERS AND CO. VS. SHIP TAPPERHETEN.

W. P. VAN NESS, JUDGE.

This vessel arrived at this port on the eleventh day of June last.

She is documented as belong-

ing to Michaelson and Benedict of Stockholm.

She left Sweden on the twenty-

sixth day of June, one thousand eight hundred and twenty-five, with a Swedish register, and all the papers necessary to constitute her the exclusive private property of Swedish subjects.

She sailed from Europe, bound to Carthagena, a port in the republic of Colombia. She entered and cleared from that port as a Swedish vessel—arrived and entered at the port of New-York, in that character; and remains here with all the original evidences of Swedish title, in the exclusive possession, and under the exclusive control, of the agent of the Swedish owners.

She is now libelled in this court for provisions and necessaries furnished at the instance of her commander, since her arrival in this port; and if she be what she is represented and appears to be, she is undoubtedly liable for these claims.

Under ordinary circumstances I should not think it necessary to look farther into the title or character of this vessel, than the documents to which I have referred, but should consider them settled and established, according to the rules and principles upon which Courts of Admiralty are known to proceed.

The Consul General of the Republic of Colombia has, however, interposed a claim on behalf of his government, founded on an alleged transfer of this vessel by Moses Isaacs, on the seventeenth day of July last.

It has, therefore, become proper to examine by what authority Mr. Isaacs undertook to transfer this vessel, and what has been the effect of his acts.

By the evidence and papers before the Court, it seems that some time previous to the month of June, one thousand eight hundred and twenty-five, the vessel in question became the subject of a negotiation between the Swedish owners, Michaelson and Benedict, and B. A. Goldschmidt & Co. of London.

We are not furnished with the means of understanding fully the nature and extent of this negotiation, but that portion of it which is disclosed will be best understood by an examination of the documents and correspondence, in the order of their dates.

We have nothing that tends to elucidate or explain the transaction anterior to the seventh June, one thousand eight hundred and twenty-five.

On that day, we find a paper executed by B. A. Goldschmidt, & Co. referring to an agreement, which had been concluded between the officers and crew of the ship *Tapperheten* and Count Van Rogen, and undertaking and engaging to provide the commander, officers and crew of the said ship, who sail from a port in Sweden, with a passage from a port in Colombia back to Europe, without any expense to them.

The fulfilment of this agreement by Goldschmidt is guaranteed by Michaelson and Benedict in another instrument bearing the same date.

Then follows another paper executed on the same tenth June, by Michaelson and Benedict, entitled a power of attorney, authorising Messrs. B. A. Goldschmidt & Co. or their assignees, to receive the ship *Tapperheten*, at the hands of

the commanding officer, against their own receipt, or that of their assignees, and declaring that Goldschmidt & Co. are at full liberty to dispose of the ship as their legal property.

At the same time Michaelson and Benedict issued their instructions to the commander of the ship, directing him to proceed to England, and request of Messrs. Goldschmidt & Co. directions where, and to whom he should deliver the ship, and to procure, *before the delivery of the ship*, letters of credit, for the sending home of that part of the crew, who, after the expiration of their contract, do not wish to remain in America. And to demand from Goldschmidt & Co. or their assignees, a due and legal receipt for the delivery of the ship.

Goldschmidt & Co. did not receive or accept the ship in England; but under date of 3d May, 1825, directed the commander to proceed to the port of Carthage in the republic of Colombia; and to deliver the vessel to the person, who might be stated in a letter to be addressed to him by their agent S. Leidorsdorf.

On the arrival of the ship at Carthage, the commander is referred by S. Liedorsdorf, in his letter dated 19th June, 1825, to Mr. M. Isaacs, and requested to take his directions in relation to her.

Mr. Isaacs also produced to the commander the power of attorney from Michaelson & Benedict, to Goldschmidt & Co. with an endorsement thereon, authorizing him, the said Mr. Isaacs, on his order, to receive the said ship.

Upon the production of this authority, the commander of the ship

tendered her to Mr. Isaacs, and offered to surrender her to him, upon his complying with the contract of Messrs. Goldschmidt, and the instructions of Messrs. Michaelson and Benedict, in relation to the officers and crew of the ship.

These conditions Mr. Isaacs said he was not then prepared to fulfil.

In this state of uncertainty and perplexity, the commander remained with his ship at Carthage, from November, one thousand eight hundred and twenty-five, till March, eighteen hundred and twenty-six. It was then proposed by Messrs. Leidorsdorf and Isaacs, that she should proceed to New-York, and Mr. Isaacs entered into a written assurance or engagement, under date of the sixth March, that the stipulations in the contract of Messrs. Goldschmidt, and the instructions of Messrs. Michaelson and Benedict, should then be complied with. On the twenty-seventh March accordingly, the commander set sail, from Carthage for New-York, and arrived there on the eleventh June last.

Here at least, in pursuance of the reiterated contracts and assurances of Goldschmidt and his agents, the commander of this ship had a right to anticipate a termination of his embarrassments; but all again ended in delusion and disappointment.

After having been detained five months at Carthage, by the agents of Goldschmidt, and made a voyage from thence to New-York, for their convenience, and at their solicitation, all his just expectations are again defeated.

Mr. Isaacs, under date of the first July, informs him that he has neither the means nor the power to comply with his own engagement entered into at Carthagena, nor with the original contract of his principals; and thus the master of this ship, with four hundred men, are abandoned in a distant and a foreign land, without resources of any kind, and in the actual want of daily subsistence.

Mr. Isaacs, throughout this very singular and extraordinary transaction, distinctly recognizes the claims of the commander, and the conditions upon which alone this vessel could be delivered to him: and yet claims the right to transfer and deliver her to a third party before he has complied with them; before he has put himself in a situation, or established his own right, to receive her. This could only be done by a compliance with the engagements of his principals, and the terms upon which the vessel was to be delivered. Having never consummated his own right to the delivery or possession, it was futile and absurd to demand a delivery of the possession to a third party.

But a more serious difficulty to the farther progress of Mr. Isaacs, is disclosed in the communication.

He states, that, under date of the 13th May, he has been instructed by the Messrs. Goldschmidts to "have nothing further to do with her, (the vessel,) or her crew," and in referring to the letter of Goldschmidt, we find that he is instructed to consider his engagements in their affairs at an end.

Mr. Isaacs therefore finds it necessary to take new ground.

He disclaims being the agent of Messrs. Goldschmidt, but resolves to act as he terms it in his own individual capacity, and in his own right demand a surrender of the ship. He can no longer act, he says, as the agent of the Messrs. Goldschmidt, in the execution of their contract, or in the fulfilment of any of their stipulations in relation to the vessel; but, as an individual, will exercise the right to transfer her to whom he pleases. In pursuance of this intimation, in his letter of the 1st, Mr. Isaacs accordingly, on the 17th July, informs the commander that he has transferred the vessel to the Colombian government. "You will, therefore, be pleased," he says, to understand yourself with the agent of the said government in every matter relating to the ship." By which he meant, no doubt, that the master should supplicate the agent of that government for subsistence, and for a compliance with obligations and duties which Goldschmidt and his agent, not the Colombian Government, were bound to fulfil and perform. This was adding insult to injury, and having thus multiplied and aggravated the evils connected with this affair, he suddenly departs for Europe, without making a provision of any sort, for the support or subsistence of six hundred men, who had been engaged in this unprofitable service of his principles, and brought into this port by his own delusive promises. A more reprehensible regard to the obligation of contracts and assurances, will not often, I trust, be presented to this court.

What had the commander of this ship to do with the Colombian

government or its agents? He had no contract with either, to supply his daily wants, to pay off his crew, and send them home. Goldschmidt had entered into such a contract in Europe, and Isaacs himself entered into another with the commander at Carthagena, to the same effect. To them he had a right to look for support and indemnity. He was neither required nor authorised to look elsewhere.

This transaction is distinguished by so much inconsistency, irregularity, and want of punctuality, to say the least of it, that I hardly know in what light to view it. And it is not the least extraordinary feature in it, that the Goldschmidts, in their correspondence with Isaacs and in the face of their solemn contract, should state that it does not belong to them to provide for the disbursements which the crews may require, and that he, Isaacs, must have nothing to do with them.

Amidst all these perplexities, the commander of this ship seems to have acted with great judgment, with consummate prudence, and with a high and scrupulous regard to the safety of those under his command, to the laws of his country, and the interests of his owners. He held fast to the property, and most rightfully refused to surrender it, but in conformity to his instructions, and on a compliance with the contracts between the parties. He held it thus, until by due and legal process, it was taken into the custody of this court, where it now is, to answer all just and legal claims against it.

I have stated the facts connected with this transaction, as they are proved by the documents, and

the testimony before the court. Under these circumstances Mr. Isaacs has attempted to transfer this vessel to the Consul General of the government of Colombia.

In whatever capacity Mr. Isaacs may have attempted to make this transfer, whether in his own individual capacity, or as agent, the act was futile and nugatory. He could transfer nothing, for he had nothing to transfer. He had neither the actual nor constructive possession of the vessel. He had never obtained the right of possession, and had not a shadow of title to the property.

Mr. Isaacs, at all events, could have no better claim or title to this ship than his principles, Goldschmidt & Co. They never had a title that would be sustained by any judicial tribunal, or recognized in any commercial country. They never had a bill of sale, or any instrument that amounted to a conveyance of title, upon any known principle of law. The Register was never transferred or changed, possession of the ship was never delivered or surrendered in any manner, and never was intended to be, but upon conditions which have never been complied with.

The only document or paper Goldschmidt & Co. ever received from Michaelson and Benedict, was not a bill of sale, or a conveyance of the title, but a power of attorney; so entitled by them, and so in fact and in form. By this power of attorney, they were authorized to receive the vessel from the commander, and having received her, to sell her. They could not receive her until the commander was ready and willing to deliver her; and if they

did not receive her, they certainly could not sell her. A previous delivery to them, was essential to their right to sell. Delivery of possession is always a very important and essential ingredient in the title to a ship.—Wherever it is possible to be made, it is necessary to the perfection of the title, even where there is a regular and formal conveyance. In this case, not only no delivery of the possession, either actual or symbolical, has ever been made, but has been uniformly and peremptorily refused, until the terms of the original instructions were fulfilled. Without a delivery of the possession, no title whatever could pass, no right or authority of any kind over the vessel could be exercised, by virtue of any document in the possession of Goldschmidt & Co.

The power of attorney to Goldschmidt, and the instructions to the commander, were dated and executed at the same time, viz. the 10th June, 1825; and if not actually parts of the same instrument, may undoubtedly be received to explain and elucidate the meaning of the parties. These instructions are framed in reference to the contract entered into by Goldschmidt & Co. on the 7th June, and explicitly forbid the commander to deliver the ship, but upon a compliance with the terms of that contract, which terms are repeated in the instructions. These instructions have been obeyed—the intentions of the owners have been fulfilled—the delivery of the vessel has been refused, and the want of it has, in my judgment, rendered ineffectual and wholly inoperative, the only instrument upon which the claim

of Goldschmidt or his agent is founded.

To test the title to this vessel, let us suppose that Michaelson & Benedict, like Goldschmidt & Co. had become unfortunate, to whose creditors would this property be adjudged? Most indubitably and necessarily, to Michaelson and Benedict. The Register, and all the usual evidences of title, standing in their name, coupled with the actual and unimpacted possession, is all that is requisite to constitute in them a good and valid title to the ship.

Nothing has been done in pursuance of the agreements between the parties in reference to this ship. The power to receive, and the instructions to deliver, remain unexecuted, and the vessel is in the same state as when she left Sweden.

If the vessel had ever been delivered to Goldschmidt & Co. they might, in execution of the power of attorney to them, have sold and transferred her; but never having received her, their authority has never been consummated, and they could exercise no power over her. It follows of course, that their agent Isaacs derived none from them; and unless he can shew that a delivery has been made to him, as the agent authorized to receive her, his transfer, whatever may be its operation, as between the Colombian Government and Goldschmidt & Co. can have no effect whatever upon the other parties, Michaelson & Benedict.

This view of the question, admits Isaacs to have been the agent of Goldschmidt, at the time the transfer was made by him, but he was



not. All his powers had been revoked before the 17th of July.— On that day, he had no power to receive, and therefore could have none to transfer the vessel. His pretended individual right is not worthy of animadversion. I am clear, therefore, that the claim of the Colombian Government cannot be maintained, but must be rejected.

This vessel then being the private property of Messrs. Michaelson & Benedict, merchants of Stockholm, is, as I have before stated, liable for necessities furnished her in this port, and she is ordered to be sold according to the prayer of the Libellants. Since the filing of the libel in this case, the seamen have presented and filed claims for wages.

This Court, in conformity to the established rule of the Courts of Admiralty in this country, is always cautious in taking cognizance of the claims and disputes of the crews of foreign ships. As a general rule, they are referred for redress to the laws and tribunals of their own country.

Where, however, by accident, or from necessity, the voyage is broken up or terminated here, we entertain their complaints, and as nearly as practicable, administer to them that justice to which they would be entitled at home. If they have entered into contracts there, in relation to their service, we endeavour to carry them into effect, as far as we can, according to their letter and their spirit.

In this case, a contract is produced, entered into in due form, before the proper authorities in

Sweden, and I shall adopt that contract as my guide, in decreeing wages to the crew, and compensation to the persons named in it.

The commander of this ship is bound to return the men under his command to their own country.— Michaelson & Benedict, the owners, have guaranteed the contract of Goldschmidt, to provide means to enable the officers and crew to return to their own country. Out of the property then, in the hands of the court belonging to these parties, it is fit and proper that this provision should be made, if the proceeds of the sale prove sufficient. In contemplation of such an order, I directed an estimate to be made of the probable expense of transporting the officers and crew to Sweden. It was furnished by the officers, and when it came in, I referred it to the clerk, and two merchants to be examined and reported upon. The clerk associated to himself J. W. Schmidt, Esq. Consul of his Prussian Majesty, and ——— Pedersep, Esq. the Danish Consul, resident in this port. The estimate furnished by these gentlemen, exceeds in amount, that of the officers. Of the two, I shall adopt the latter, with some modification.

It will be seen that I have now settled all the principles presented by this case. The detailed allowances, appropriated to the various objects of supplies and necessities, wages of the seamen, and expenses of transportation home, will all be particularly set forth and specified in the decree to be entered in conformity to this decision.

## PIRACY AND MURDER.

The peculiar circumstances connected with the case of the brig *Crawford*, which will be developed in the sequel, induced Chief Justice Marshall to hold a special term of the Federal Court for the Fifth Circuit and Eastern District of Virginia, for the trial of the three Spaniards. The three prisoners, viz: Pepe, otherwise called Jose Hilario Casaris, Couro, otherwise called Joseph Mirando, and Felix, otherwise Felix Barreto, were all charged in the first indictment with Piracy, and in each of the others, with the murder of some one of the persons who were slaughtered by them.—The prisoners having been arraigned, pleaded not guilty to all the indictments. Mr. Stanard, District Attorney for the United States, conducted the prosecution. The Court assigned Mr. Leigh, in addition to Mr. Schmidt, who appeared as counsel for the arraigned.

In compliance with a wish expressed by the prisoners they were tried separately; and consequently the testimony, being the same in each case, was repeated by the witnesses on the three several trials. One of the material witnesses being unable to speak the English language, and the prisoners understanding only the Spanish, Mr. Adolphus Crozet acted as interpreter on the two first, and Dr. Lemosey, on the last trial.

Edmund Dobson, the first witness called, was the mate of the Brig *Crawford*. From his testimony we collected the following facts, which we give, without pur-

suing the order of his narrative, or extending the statement by pursuing the cross-examinations that were had. The brig *Crawford* was built at Troy, and registered last at Providence, from which port she sailed about the 6th of April for Matanzas, in the island of Cuba. Capt. Henry Brightman, master, himself, mate, and Joseph Doliver, Oliver Potter, Asa Bicknell, Nathaniel P. Deane, and Stephen Gibbs, (coloured cook) mariners. After discharging their cargo at Matanzas, the captain told him he expected to have some passengers, who were foreigners. About a week before they sailed, Alexander Tardy came on board and staid all night, but returned to shore the next day. But while taking on board their homeward cargo, Tardy remained on board several days. He thinks it was about three days before they sailed, the prisoners Felix and Couro came on board bringing a small iron bound box, said to contain money. The witness was ordered to put it under the Captain's birth, in a locker, which he accordingly did, in the presence of Felix, who seemed satisfied with this disposition of it. From that time till the vessel sailed, Felix remained on board, during which time much of the cargo was taken in. In the course of the testimony, the history of this box seemed to have an important bearing on the trials, and the witness was cross-examined respecting it. He said he never saw or knew any thing of it afterwards; and did not think that it

could possibly have been brought from below, put on board the boat, and sent ashore, without Felix or himself knowing it. He had understood from the cook, who was a black man, that it had been removed—and by consent, this hearsay testimony was permitted to be related—and the witness said, he was told by the cook that Felix had caused the box to be removed to a locker under the cupboard, and afterwards to Felix's own apartment—and that this occurred before they left the bay of Matanzas. Pepe came on board the day before sailing. The passengers being all on board, the vessel was moved out a little from among the other shipping, where she remained until her papers were obtained, and there was no longer any cause of delay. She sailed on the 28th May.

Nothing remarkable occurred until the morning of the 1st June. They breakfasted about 8 o'clock. Tardy seemed to be somewhat officious on the occasion. He helped the witness to some fried eggs and ham, and a bowl of chocolate. Witness spilt some of the chocolate. Tardy insisted upon it, and actually replenished the bowl. After breakfast he retired to the state room, to get some rest, having been up all night. He soon felt very giddy in the head, and sick at the stomach. The captain soon came down, and when he ascertained his situation, invited Tardy, who professed to be a Doctor, to come down and see him. T. did so; said that he was bilious, and proposed an emetic. Mr. Robinson, the supercargo, advised him to have nothing to do with his medicine,

and he determined to defer it until the next morning. He came on the deck and laid down on a mattress, where he remained all day quite sick, and vomiting occasionally. In the evening Robinson told him he had no doubt but that Tardy had given them all poison; and that, for the future they must eat nothing but what was served up by their own cook; that Couro had come on board in the capacity of a servant, and that he must be made to cook for the Spaniards. The witness had no suspicion at that time at being poisoned, as the cook had not told him of Tardy's agency in cooking the breakfast. In the evening about 8 o'clock he went into the cabin, and found the Captain quite unwell with the asthma and a cough; who invited him to sleep along side of him, and said that Robinson would stay in the cabin with them. As the weather was warm and he felt some solicitude about the vessel, he declined, and came on deck, where he lay about four hours or until about 12 o'clock, when Doliver, one of the seamen came to the relief of the man at the helm. There was no moon and the night a clear star light night. He gave D. orders to apprise him of any change in the weather, and then slept he thinks until between 1 and 2 o'clock, when he was suddenly awoken by a noise, the cause of which he did not understand. He ran forward, and as soon as he got a little beyond the windlass, he saw a man standing with a knife in his hand by whom he was severely stabbed in the shoulder, (the witnesses' arm is still in a sling.) In a state of great excitement and a-

larm, he ran across the vessel where he found Potter, a sailor, standing in a reclined position, who said he was stabbed, and asked if they could get any assistance? The witness seized a handspike from the long boat and attempted to get into the main rigging. He found Doliver and Potter had both ascended before him, and the blood from their wounds was streaming down like rain over him and the rigging. He saw a man about this time leaning against the railing, who in a short time fell as he believed dead.— He thought it was the captain and spoke to him, but got no answer; he had since understood it was not the captain. Whilst in this situation Potter fainted, and the witness and Doliver then told him that Tardy came to the helm, looked into the binnacle and about, but excited no suspicion in his mind; though suddenly cut him very badly in the throat, and took the helm from him. Whilst at the mast head witness heard Robinson and Nathan overboard and in the water. He knew them by their voices. They were in great distress and implored to be permitted to come on board; but the Spaniards said no, no, no. Robinson kept rather off, but Nathan came near the vessel and entreated that a barrel, a plank or an oar might be thrown overboard to him, that he might prolong his existence in that way for a little while, under the desperate hope of succour from some vessel that possibly might pass him. But his entreaties did not in the least move the hearts of the Spaniards. They refused, and even attempted to plunge a harpoon or some such

instrument into him, and to strike him, with an oar. Finding his supplications so inhumanly received, he sought and remained with Robinson, until they were both exhausted and sunk to rise no more. The witness also heard two bodies thrown overboard. He next heard the Spaniards talking about him; and Tardy soon asked if he was above and was wounded, and told him to come down. He refused to do so, saying if he did they would kill him, and preferred staying where he was and dying with his shipmates. Tardy told him the Spaniards said they would not hurt him, and that if he would come down, he would give him his word of honour he should be safe. One of his shipmates begged him for God's sake not to go down to be butchered; he, however, did so, upon Tardy's assurances. After getting on deck, Tardy and the three Spaniards came around him. Tardy questioned him about the box of money; and said that the captain, before they sailed from Matanzas, had sent the money on shore, and that the Spaniards had determined not to come to the United States and have a suit about it, but to seize upon the vessel, and do themselves justice. He agreed that he would assist him in navigating the vessel. At his request he was then laid down by them, and Tardy ordered up the medicine chest to dress his wound, but the Spaniards, as he understood them, said no, no, time enough yet. Tardy having ascertained from him who else were aloft, and ordered them to come down one at a time. After a while Doliver came down. Tardy stood at the

helm, and the Spaniards went round Doliver, and after some conversation among them, he saw Couro stab Doliver; Pepe, then run upon him, and striking him in the breast he fell overboard. He heard Doliver call to Potter from the water and tell him not to come down, for if he did the barbarous wretches would kill him. Some short time after, he heard Potter tumble from the mast head and fall overboard without a groan.

After day light, Pepe and Couro, loaded two muskets, went forward and called up a man (Bicknell) from the forecastle, who had no shirt on, and seemed to be wounded, having something like a handkerchief tied around his breast. While Bicknell was sitting on the rail, one of them fired a musket at him, and he fell overboard. The other then fired and the witness thought hit him, for he heard him groan heavily. They then called down the cook who hid himself, and was until then unperceived in another part of the rigging, ordered him to go to work cooking breakfast, which he promptly obeyed. The witness saw a knife lashed to a staff; two of the Spaniards were without shirts, and besmeared with blood, with their bloody knives sticking in their girdles about their waists. There was a bottle of spirits sitting not far from where he was, to which the Spaniards went and drank. Tardy, observing that the witness was almost overpowered by the horrid butchery he had witnessed, and the appalling sight of the blood-thirsty monsters, then exulting in the success of their more than savage cruelties; attempted to allay his fears, by telling him that

these Spaniards had been drinking all night and were not yet drunk, and that notwithstanding what had happened, and the appearance of their knives, they would not hurt him; and he (Tardy) pledged himself again to that effect. The pirates then went to work in destroying all the papers belonging to the vessel, which were thrown into the sea. The leaves of the bibles belonging to some of the men were torn out, and also thrown overboard, as were the sea-clothing of the sailors. During this destruction of these evidences of the character of the vessel, Tardy and the Spaniards kept up a constant huzzaing, exulting and bragging of their exploit.

The vessel was all a gore of blood; her deck, masts, spars, sails, &c. The cook was made to take buckets of water and wash it away; where it could not be gotten off the sails, &c. he was made to paint them over, so as to hide it. Pepe, after one of the other Spaniards had fixed the rope, hauled up the dead body of the Irish passenger from below, which was thrown overboard.—The command of the vessel was assumed by Tardy, who knew very little of navigation; the Spaniards knowing nothing about it, not being able even to splice a rope. The services of the witness were therefore necessary to them. From what he had seen of the men, in whose power he was, he was prepared to execute any order they might give him, even if it had been to throw himself into the deep. He therefore, obeyed them; but with the faintest hope imaginable, of ultimately gaining his freedom or saving his

life. During the dreadful scene, the French passenger was near Tardy at the helm, and showed every mark of suffering and sympathy. Tardy told the witness that the Frenchman was a good and intelligent man, and would be of some service to them.

Tardy showed the witness a complete set of Spanish papers for the vessel, representing her to belong to the Port of Havanna, bound by way of Matanzas to Hamburg in Europe. (These papers were exhibited in Court as part of the evidence, to show that the Piracy was planned, and the mode of executing it arranged before the prisoners left Matanzas. Tardy told the witness he had paid nine doubloons for them, and if the government knew he had procured them, the officer who gave them to him would lose his place. He explained his intention to the witness, of going to Hamburg, and conversed with him about the course to steer, the condition of the vessel, her stores, &c. Felix appeared to be next in authority, and also said they were going to Hamburg, and intimated to the witness that he should share equally in the proceeds of the cargo in Hamburg with himself and Tardy. But as to the other Spaniards they were to have only a little, as they were inferior sort of men. This the witness was made to understand by signs. They then proceeded to dress his wound, and after the sun became oppressive to him on deck, he was removed into the cabin, on reaching which, he fainted. When he revived, he heard a noise, and looking round, observed that Felix was breaking open his chest.

He told him where to find the key, which was procured, and the chest opened. His sea-clothes were taken out and thrown overboard, some trifling articles of clothing were taken with his pocket book, and a small sum of money. The money was carried to the state room, and put into a common stock, composed of the money they got hold of. (The pocket book was found in possession of Felix when taken by the officers from Old Point, and was in Court.)

The witness here related the conversation between himself and Tardy as to the improbability of getting to Hamburg without mariners, and with the small stock of provisions they had. It resulted in a determination to make to the nearest port in the United States, and to take in hands and provisions; and they sailed for St. Mary's, which they nearly reached—but owing to contrary winds, they could not make. The wind was favourable to their going to Savannah or Charleston—but Tardy would not consent to go to either port. He had resided at one place and had failed there in business, and was known in both too well to venture in either. They then determined to sail to the Chesapeake, and barely call at the first port for men and provisions. The witness here gave a long account of what occurred after they entered the Capes, and before they arrived at Old Point. They were spoken by four different pilots, all of whom Tardy refused. The last, however, attempted to go on board, and Tardy was induced by the witness to permit it, to prevent suspicion, as

the name of the vessel had been effaced the day after the murder of the crew. But, before the pilot boarded, Tardy gave orders to the Spaniards and witness how to deport themselves, so as to avoid the possibility of discovery. He conjured the witness not to betray him, he had saved the witness's life, and he must be true to him. The witness says he quieted his fears, and was clapped on the breast by Tardy, who declared he was just as him, &c. The other details are unimportant. The vessel having been brought to anchor off Old Point Comfort, Tardy announced his intention of going on shore, and promised the witness *a good mess of eggs and fresh meat*, for he had been living on salt provisions long enough.—The witness said he had no idea of staying on board himself that night, if by any stratagem he could get ashore. He had seen one or more bundles of iron tied up, and had previously ascertained from Tardy, that they were in readiness to sink the cook when they killed him. The three Spaniards and the cook were sent aloft to reef the sails, and he proposed to Tardy to assist in getting the boat ready and to bring it alongside for him. His proposition was consented to with some reluctance, and he got into the boat to take out the plug to let the water that was in her escape, and desired that the French passenger should take one rope and Tardy the other, and let the boat down. This they did. As soon as she touched the water, instead of bringing her alongside, he made for the shore with all his strength. He knew that there were no load-

ed arms on board, and that he was safe. Tardy asked him as he was going off, if he would betray him; he answered no, and hastened to the shore, where he related the story to the officers in command, and entreated them to go on board immediately that they might save the lives of the Frenchman and the cook. He had noticed the aversion shown by the Frenchman to the Spaniards from the fatal 1st June, and that he avoided all intercourse with them as much as he could—and the witness felt a deep interest in the preservation of his life.

Mr. Ferdinand Geunouhac, the next witness examined, is a native of the province of Languedoc, in France, and has resided as a merchant in Matanzas for seven years. He is a man of good countenance and deportment, and is unable to speak a word of English. He said he knew nothing of the brig Crawford until he took his passage on board of her. Besides himself, there were six passengers, and the supercargo—Tardy, the three Spaniards—and two men who spoke English. He did not think he had ever before seen Tardy or the Spaniards to know them. His detail of the circumstances, and time of sailing, and of the events of the butchery of the Captain and crew, in nearly all the main particulars, corresponded exactly with the testimony of Mr. Dobson. It is unnecessary to recapitulate those parts of this tragical story that have been already told. This witness saw some things which Mr. Dobson did not; understands Spanish, and knew more of the conversations and intentions of the desperadoes—but

we shall omit those parts of his testimony that have been embraced above. He stated that he had come on board with the intention of going to New-York to attend to some commercial business in that city. The Spanish passengers told him they had \$17,000 on board, were going to New-York to purchase a vessel, and intended to go to the coast of Africa. On the first of June he noticed that the crew were taken sick; the mate (Dobson) being much more so than any of the rest. He did not know the cause, but was told after the massacre by the Spaniards, that the Captain wanted to poison every body on board, that he might get the money of the passengers. He slept on deck the night of the 1st June, and about two or five o'clock he was roused by a noise on the deck. He found Tardy at the helm, near which he lay. It was dark, and he could not well distinguish things—but he saw two men struggling two or three yards from him, one of them fell. He did not know who they were. Pepe told him afterwards it was himself, killing the Captain; but Felix insisted that he had killed the captain. Very soon he saw a man despatching some one with an axe, and he thought he recognized the voice of Pepe, who afterwards told him it was so. He saw a man coming up from the cabin, and one of the Spaniards stabbed him, and he fell back into the cabin. He recognized him to be the man who spoke English, and had a sore on his leg, (which was the case, by Mr. Dobson's testimony, with the Irish passenger.) Felix told him that he had

killed him, and that he thought at the time it was Robinson coming up with a gun. At day-break the witness saw Robinson and the sailor in the water, and confirmed all that Dobson had said respecting them. When the man was called down from the mast, the Spaniards got around him. Pepe asked the others why they were delaying killing him. Couro replied he wanted to give him a good and fatal blow, and not to wound him. [The only gleam of mercy that appears in this whole scene of savage barbarity.] Pepe then ran on him, and he fell overboard. After day break they loaded two guns, called up a man from below who had something tied round his breast as over a wound, and ordered him to jump overboard, which he did; and as he went one of them fired, and as he thinks missed him. The other shot him after he fell in the water. They then hauled up the dead body from the cabin. They examined it, and remarked that the stab given him was *the finest they had ever seen in all their lives, it had so completely severed the heart.* He heard the man fall from the rigging as described by Dobson.—The Spaniards, after the butchery was over, asked Tardy why he had not brought them two knives as he had promised—they said all they had were broken, and if any thing should happen they would have nothing to defend themselves. Tardy promised to buy them the first time he got to land. The clothes of the Spaniards were bloody, and they threw them into the sea, as they did most of the clothes of the crew and passen-



gers. Three or four days afterwards, he heard them say that the mate and cook were only fattening to be killed. Tardy assumed the command, and Felix was to keep the books, and he also had some little knowledge of steering. Tardy showed the witness the false papers obtained in Havana for the vessel, and said they cost him 25 doubloons. The reason he gave the witness for saving his life was, that he was his countryman; that he had been a pirate for a great while, and had never injured a Frenchman, and should not commence then. The same pretext was given to this witness as to Dobson, for the massacre, and of the ulterior views of the party. When near St. Mary's, Tardy proposed to let him go on shore, and to give him \$50 to bear his expenses by land to New York. He had strong hope of being spared, until he saw the Spaniards one day making a dirk out of an old knife—but Tardy gave him most solemn assurances of his safety, in which he had some hope, as he recollected how he had made him stand by him at the helm, and protected him during the butchery. He told the same story with the mate as to their arrival in the Chesapeake, the pilots, the conduct of Tardy, and the escape of Dobson in the boat at Old Point Comfort. As soon as Dobson made off in the boat, Tardy appeared to be greatly alarmed, said two or three words to Dobson who replied in one word—none of which he understood. Tardy then told him he was a *lost man*. An American vessel had anchored not far off, and Tardy spoke it, and obtained from it the use of

their long boat to send to the shore for his own, and two hands to row it. In this boat the three Spaniards embarked—after getting some distance they returned, saying they could not get the boat; but Tardy ordered them to proceed, and they did so; but the Spaniards not going where the boat was, Tardy became more alarmed, expressed his dreadful apprehensions of the consequences, and announced his determination to cut his throat. (It was conjectured that the Spaniards were sent off to secure or despatch Dobson, but preferring their own safety, made their escape.) The witness and Tardy went into the cabin, when the witness took possession of some articles that belonged to him, and then returned on deck. In a few moments he understood from the negro (the cook,) that Tardy had cut his throat.

Mr. Joseph Brough was the next witness examined. He was the Pilot who went on board the vessel and conducted it to Old Point. His testimony corresponded with that of Dobson and the last witness, as to events after his going on board. He witnessed the tragical end of Tardy, and upon rushing upon deck and calling out for assistance, saw the officers from Old Point boarding the vessel.

Captain N. G. Dana, who was temporarily in command at Old Point, and to whom the story of Dobson had been related, after its extravagance had gained some credence with the subaltern officers, gave the necessary orders for Dobson's confinement, for boarding the vessel, &c. &c.

Dobson having told him the vessel was built at Troy, and that her name was effaced, and having satisfactorily answered a few questions as to the localities of Troy, with which the Captain was acquainted, he went on board with a party of armed men, and found that Tardy was only alive. The surgeon was sent for, and pronounced him beyond the reach of his skill. Necessary measures were then adopted to pursue the Spaniards, to secure the vessel, and to have an inquest over the body of Tardy, who lived but a few minutes. The prisoners had lost no time in effecting their escape. They had passed over many creeks and inlets, and over a long and devious route; had crossed James river in a canoe near its mouth, and penetrated many miles into the interior, round the bays and inlets on the South side, before they were overtaken. They were aiming for Norfolk and would not have been

overtaken but for the praiseworthy zeal and exertions of the party in pursuit, who were aided by the inhabitants with fresh horses and one or two recruits. Mr. Servant, Col. Jones and Lt. Robert Anderson were examined as to these particulars. Mr. Westwood, the Custom House Officer at Hampton, proved the identity of the papers found on board the vessel.—An inquest was held over the body of Tardy, and he was buried on the beach, at high water mark, with his face downwards.

The trial under the indictment for Piracy, commenced on Monday and closed on Wednesday. On each day one of the prisoners were tried. In all the cases, the testimony was submitted to the jury without argument from the bar; and the jury, a separate one in each case, after a retirement of but a few minutes, returned with a verdict of *guilty*.

#### COURT OF KING'S BENCH, MONTREAL, June 20th.

DOM REX. VS. W. E. BALL, *et. al.*—*On Habeas Corpus.*

The case before us presents the following facts: One Joseph Fisher, stated to be an alien, came lately into this Province, where he was attached by his body about the 10th May last, at the suit of one John Wood, a merchant in the State of New Hampshire, for a civil debt of £160, and was thereupon detained in the Jail of this District. On the 28th day of the same month, two warrants signed by Samuel Gale, Esq. the Police Magistrate, were lodged with the keeper of the same jail, the one charging the said Joseph Fisher,

as late of Vermont, gentleman, of "being accused on oath with having feloniously stolen, taken and carried away from a trunk previously locked, bank notes to the amount of \$638, the property of John Wood:" and directing the detention of the said Joseph Fisher, in the said jail, to be dealt with according to law. The other warrant being somewhat more extended and precise, stating "that whereas Joseph Fisher, late of Vermont, gentleman, an alien, to wit, a Prussian, now in confinement, under civil process, in the

said jail, stands charged upon oath with having at Middlebury, in the State of Vermont, feloniously stolen, taken, and carried away from a trunk previously locked, bank notes to the amount of \$638, and to the number of upwards of 240, the property of John Wood, of Keene, in the State of New-Hampshire, and with having, immediately upon the commission of the said felony, come into this Province," and directing also the detention of the said Joseph Fisher to be dealt with according to law. These warrants appear to be founded on two depositions made by the said John Wood on the said 28th May last, before the said Police Magistrate, in one of which the stealing of the Bank bills or notes, to the amount of \$538, is mentioned, but without stating the time or place where the felony was committed, and that the said John Wood verily believed the said felony to have been committed by the said Joseph Fisher, and in the subsequent deposition the said John Wood swears, "that the said Joseph Fisher committed the crime and felony charged in the affidavit aforesaid at Middlebury, in the State of Vermont; that the said Joseph Fisher, is not an English subject, but an alien, to wit, a Prussian, as declared by him the said Joseph Fisher, and came into this Province, from the state of Vermont aforesaid, immediately after the commission of the aforesaid offence." It further appears that the offence so charged against the said Joseph Fisher, is a Felony, and a crime punishable by the laws of the State of Vermont.

On the 30th day of the said

month of May last, a warrant was issued in the name of Our Sovereign Lord the King, tested in the name of, and signed by his Excellency the Earl of Dalhousie, the Governor-in-Chief of the Province, the said warrant, addressed to the Sheriff of the District of Montreal, in which it is stated as follows:—

"Whereas, Joseph Fisher, late of the town of Middlebury, in the county of Addison, in the state of Vermont, one of the United States of America, gentleman, is now committed and detained in our Common Jail in our said District of Montreal, under your custody, upon, and by reason of a certain charge on oath of felony, to wit, upon the charge on oath of having on the twenty-third day of April, 1827, at the said town of Middlebury, in the county of Addison, in the state of Vermont, one of the United States of America, feloniously stolen and carried away divers, to wit, 240 bank notes for the payment of divers sums of money, in the whole amounting to \$638, of the value of £143 11 sterling money of Great Britain, and then and there being the property of one John Wood. And whereas the said Joseph Fisher, not being one of our subjects, but being an alien, to wit, a Prussian, hath since the commission of the said offence come into this Province from the said United States of America, and the said offence whereof he is charged as aforesaid, having been committed within the jurisdiction of the said state of Vermont, it is fit and expedient that the said Joseph Fisher be made amenable to the laws of the said state of Vermont for

the offence aforesaid. We, therefore, command you that the body of the said Joseph Fisher, under your custody as aforesaid, you do immediately convey and deliver to such person or persons as according to the laws of the said state of Vermont may be lawfully authorized to receive the same, at some convenient place on the confines of this Province and of the said state of Vermont, to the end that the said Joseph Fisher may be thence safely conveyed by such person or persons as aforesaid, to the town of Middlebury aforesaid, and there be made no answer for the offence aforesaid, according to the laws of the State of Vermont. Provided always, that the said Joseph Fisher be detained under your custody aforesaid for no cause, matter, or thing, other than the offence aforesaid: and this you are not to omit at your peril. Witness," &c.

By the return made to the writ of *Habeas Corpus* sued out by the said Joseph Fisher, it appears that the Sheriff of the District of Montreal, made his warrant to William Easton Ball, his bailiff, and charged him with the execution of the said warrant, so issued in the name of His Majesty.

Upon the return to this writ of *Habeas Corpus*, several questions have been raised, and objections taken on the part of the prisoner, as to the sufficiency and the legality of this proceeding against him. These we shall now consider.

1. It is first objected that there is here no clear and positive charge of any felony or crime having been committed by the prisoner; the charge against him

amounting merely to a suspicion, the grounds, or causes of which are not set out, so as to enable the Court to judge how far they are reasonable or sufficient.

It cannot be supposed that much stress was meant to be laid upon this objection, as in the affidavit of John Wood there is a positive charge against the prisoner, *that he committed the felony in question at Middlebury, in the state of Vermont*, and so expressed in the warrant of commitment. It was no doubt necessary that the charge against the prisoner should be sufficiently clear and positive to render him amenable to the laws of that country, he is stated to have violated, for this constitutes the ground work of the whole proceeding. The Court, however, thinks the accusation against the prisoner to be sufficiently clear and positive in all material points. It is true the day when the felony was committed is not mentioned in the affidavit of Mr. Wood, although it is in the warrant addressed to the Sheriff; but from the circumstances stated of the prisoner's coming into this province immediately after the felony was committed, and his subsequent arrest here in May last, this would be sufficient to hold him amenable to the law; the omission of a positive day or date being in many respects not so material.

2. It is objected, that upon the supposition that a sufficient charge of a crime be made out against the prisoner, yet that the sovereign cannot lawfully deliver him up to the state where the crime is said to have been committed; and even allowing this right to the sovereign,

not that it has never been practised or allowed, except in offences of the most aggravated nature, such as murder and robbery, but never in the minor offences of larceny and such like.

This objection embraces the main points in the case, and the determination upon it will, in a great measure, obviate all the other objections. In considering this part of the case, much of the argument used must be laid out of the question, such as that founded on offences of a political nature, arising out of revolutionary principles, excited in any government, as in these cases the refusal of a state to surrender the accused cannot be drawn into precedent, for the authority of the state to which the accused has fled may well be extended to protect rather than deliver him up to his accusers, and this upon a wise and humane policy, because the voice of justice cannot always be heard amidst the rage of revolution, or when the sovereign and the subject are at open variance respecting their political rights; and, therefore, no state will ever be induced to deliver men up to destruction, nor even to malicious prosecution. We will, also, lay out of the question all the cases depending upon treaties and conventions entered into between different nations, as in such cases the surrender of the accused by one nation to another, is not so much the effect of the exercise of a prerogative right or power of the executive government, as the execution of a national convention binding on both parties. We must meet the case as it presents itself, which calls upon us to determine

whether for any crime great or small, committed in a foreign state, there exists in the executive government of this country any authority to deliver up the accused to be dealt with according to the offended laws of such foreign state.

The crime here charged against the prisoner is recognized as an offence against the laws of all Christian and civilized nations, and this crime may be more or less aggravated according to the circumstances of every particular case. In looking at the authorities cited from Grotius, Puffendorff, Vattel, Hemeccius, Burlamaqui and Martens, and to what has been written by them on this subject, we feel it unnecessary to make particular quotations from them in support of the doctrine in hand, because it is impossible that any unprejudiced man can read these authors without being satisfied that the principle here objected to, stands admitted as a thing understood, practised and recognized by the comity of nations, that the offender against the laws of one nation, taking refuge with another, may be surrendered to the offended nation for the ends of justice. The difference of opinion among these writers as to the enormity of the offence cannot affect the principle, although it may vary the practice among different nations according to circumstances. This right of surrender is founded on the principle, that he who has caused an injury is bound to repair it, and he who has infringed the laws of any country is liable to the punishment inflicted by those laws; if we screen him from that punishment, we become parties to his crime—we excite reta-

liation—we encourage criminals to take refuge amongst us. We do that as a nation, which as individuals it would be dishonourable, nay, criminal to do. If, on the contrary, we deliver up the accused to the offended nation, we only fulfil our part of the social compact, which directs that the rights of nations as well as of individuals should be respected, and a good understanding maintained between them; and this is the more requisite among neighbouring states on account of the daily communications which must necessarily subsist between them.—A modern writer\* on the law of nations, says, “La communication journaliere entre deux pais limitrophes est inevitable, et elle doit etre d’autant plus favorisee par leurs Gouvernements respectifs; qu’elle est naturellement fondee sur des besoins reciproques, et qu’elle donne par la, lieu a des changes, d’ailleurs elle etablit entre les habitans respectifs des liaisons, et un sorte de confiance qui assure leur tranquillite, et contribuent a leur jouissances.” Indeed were we to take into account the opinions of modern writers on international law, we would be still more strongly fortified in the principles we here hold, and we see no reason why those opinions should be rejected. By lapse of time, by new combinations and events, and by revolution, the principles of government may be altered and improved, and we have in the present age had many lessons to teach us wisdom. At

\* Instit. du Droit des Gens. &c. par C. Gerard de Raynoval; liv. 2 ch. 3 § 4. p. 134.\*

all events, we may safely say, that at the present day the world has become enlightened in the science of Government, as well as in all the other departments of human knowledge, far beyond what was known to those writers who have lived centuries ago, and, therefore, that the maxims of Government of the present day may be considered as at least as well understood and better adapted to the rights and feelings of mankind than they could have been in the days of Grotius and Puffendorff.

But let us look more immediately to the laws of our country, as the principles there adopted, must serve to guide our decision on the question. The law of England recognizes the law of nations as part of the common law of the land, and although upon this question, from the insulated situation of that country, we do not meet with numerous decisions, on the point, yet we find enough to satisfy us, that we are holding to those principles which have been there adopted. Here we must refer to the cases cited at the bar, as furnishing the only light on the subject, which we have at this moment been able to procure. *Rex vs. Hutchinson*, (3 *Keb. Rep.* 785,) where the court refused to bail a man committed for a murder in Portugal. *Col. Lundy’s case*, (2 *Vent. Rep.* 314,) who was arrested in Scotland for a capital offence committed by him in Ireland—held, that he might be sent there to be tried. *Rex vs. Kimberly* (*Str. Rep.* 848,) Justices of the peace in England may commit a person offending against Irish law, in order to be sent to be tried in Ireland. *East India Co. vs.*

Campbell, (1 *Ves. Senr.* 246,) where it was held, that one may be sent from England to Calcutta to be tried for an offence committed there. *Mure vs. Kaye*, (4 *Taunt. Rep.* 43,) where Judge Heath held that it has been generally understood, that whenever a crime has been committed, the criminal is punishable according to the *lex loci* of the country against the law of which the crime was committed, and by the comity of nations, the country in which the criminal is found, has aided the police of the country against which the crime was committed in bringing the criminal to justice. In Lord Loughborough's time, the crew of a Dutch ship mastered the vessel, and ran away with her, and brought her into Deal, and it was a question whether we could seize them and send them to Holland, and it was held we might. And the same has always been the law of all civilized countries.

It has, however, been said, that the cases of *Lundy*, *Kimberly*, and *Campbell*, do not apply, as the countries to which these persons were sent, were under the same dominion of the authority sending them, and therefore there could be no question raised touching international law. This may be considered an ingenious, but we think not the true construction to be put upon these cases, for the question was the right to send these persons to a different country from that in which they then were to be tried by the laws of that country for an offence committed against them, and without some law to warrant this, and none is cited or relied on, the Sove-

reign had no more authority to send those persons to such distant countries for their trial, than he had to send them to a foreign country for this purpose—besides, we see nothing said in any of these cases which can lead us to believe that the decision was founded on the power of the crown over these several countries: on the contrary, from what was observed in Campbell's case, we must believe it was the general principle we here contended for, which was recognized. In that case the court is stated to have said, "that the government may send a person to answer for a crime wherever committed, that he may not involve his country, and to prevent reprisals."

In the two other cases, the pretence that the offended country was under the same dominion, will not apply, the general principle is there clearly established, particularly in the latter of *Mure vs. Kaye*, for there Judge Heath lays it down, as the law of all civilized countries, and although the particular instance for elucidating this general principle in the case of the Dutch sailors has been called a case of piracy, and as such always restrained among friendly nations, yet without a particular treaty on this subject, this case presented only a question of international law, which stood upon no better right than the present; the particular circumstances alone could lead to a more ready exercise of the right of interference of the British government, and accordingly we find, that Mr. Chitty in his treatise on criminal law, 1 vol. p. 16, has laid it down as a general princi-

ple, "that if a person having committed a felony in a foreign country, comes into England, he may be arrested here, and conveyed and given up to the magistrates of the country against the laws of which the offence was committed," and he cites as the ground work of this principle the above case of *Mure vs. Kaye*.

Two cases have been cited as having been decided in the United States of America, applicable to that before us; the one by Mr. Chancellor Kent in the state of New-York, and the other by Judge Tilghman, in the state of Pennsylvania. We are happy to have the opinions of enlightened men upon a question of this kind, laid before us, particularly from a country with which our communications are so frequent, and our interests mutual. The opinions of these learned men are, however, at variance upon some points: so that the question might still be considered as unsettled in that country, without some local law on the subject. We cannot, however, help expressing our entire approbation of those principles which have been adopted, and so forcibly applied by Mr. Chancellor Kent in his judgment; they appear to us to be founded on a fair interpretation of the law, and well suited to the national intercourse and good understanding between the two countries. The opinion and decision of Judge Tilghman, which has been cited, and relied on by the prisoner, does not seem to favour his case; we would even say, that some parts of it make strongly against him. According to the report of the decision which has been communicated to us, it

would appear that one Short who had fled from Ireland to the United States, was charged by an individual there, with having committed a murder in Ireland, and was arrested at the instance of this individual, with a view to his being sent back to Ireland, but no demand had been made of the accused by the Government, nor had the Executive of the United States directed any thing to be done in regard of him, either as to his arrest or detention.\* The prisoner Short being brought before Judge Tilghman on the writ of Habeas Corpus, it became a question before him, how far the prisoner was liable to be detained under such circumstances. The Judge determined that he could not. But this is not the case of the prisoner before us, for he has not only been accused of a crime, but by the order of the Executive Government it is directed that he shall be delivered up to the legal authority of that state where the crime was committed; and from what we can collect of Judge Tilghman's decision, there is some reason to believe that had the prisoner Short, when brought before him, stood in the same situation as the prisoner Fisher now does, he would have determined differently. We will make a short extract from this decision to show the reasonableness of this belief, from the general principles there held, which we conceive to be consistent with the opinion we now hold; he says, "I grant, that when the Executive has been in the habit of delivering up fugitives, or is obliged by treaty, the Magistrates may issue warrants of arrest on their own accord (on



proper evidence) in order the more effectually to accomplish the intent of the Government by preventing the escape of the criminal. On this principle we arrest offenders who have fled from one of the United States to another, even before demand has been made by the Executive of the State from which they fled.—But what right is there to arrest in cases where the Government has declared that it will not deliver up? For what purpose is such an arrest? Can any judgment be given, by which the Executive can be compelled to surrender a fugitive? Most certainly not. If the President of the United States should cause a person to be imprisoned, for the purpose of delivering him to a foreign power, the Judges might issue a Habeas Corpus, and inquire into the legality of the proceeding; but they have no authority whatever to make such delivery themselves, or to command the Executive to make it. If these principles be just, it follows, that under existing circumstances, no Magistrate in Pennsylvania has a right to cause a person to be arrested in order to afford an opportunity to the President of the United States to deliver him to a foreign Government. But what if the Executive should hereafter be of opinion, in the case of some enormous offender, that it had a right, and was bound in duty to surrender him, and should make application to a Magistrate for a warrant of arrest? That would be a case quite different from the one before me, and I should think it imprudent at the present moment to give an opinion on it. *Every nation has an*

*undoubted right to surrender fugitives from other States. No man has a right to say, 'I will force myself into your territory, and you shall protect me.'* In the case supposed, the question would be whether, under the existing constitution and laws, the President *has a right to act for the nation*, or whether he must wait until Congress think proper to legislate on the subject. The opinion of the Executive hitherto has been, that it has no power to act, and should it ever depart from that opinion, it will be for the Judges to decide on the case as it shall then stand. Neither do I give any opinion whether the Executive of the State of Pennsylvania has power to cause a fugitive criminal to be arrested for the purpose of delivering him up. But confining myself to the case before me, in which the arrest was made at the request of a private person, I am of opinion that there is no law to support it, and therefore the prisoner is entitled to his discharge."

Taking then the opinion of Judge Tilghman on the principle here stated, and supposing that there existed a law in the United States, authorizing the President to act for the nation, as the prerogative of the King of Great Britain authorizes him to act in this behalf, there can be no doubt, but that in the one country as well as in the other, what the Executive legally directed to be done in regard of delivering up a fugitive would be confirmed by the judiciary.

The objection that the offence charged against the prisoner, is not of that enormity as either to require, or permit, that the Execu-

tive should interfere to deliver him up, can have no weight. It would be difficult to establish a rule, where none has been settled, to enable us to distinguish the shades of enormity of different offences, their evil tendency, or pernicious effects, so as to limit the power of the prerogative as applicable only to such crimes as are productive of a certain *quantum* of evil in a state. The certain and positive rule laid down by all writers on international law, and the decisions had thereon, as above referred to, agree to say, that where a *crime* has been committed, the criminal may be surrendered to the offended country. There is certainly great difference of opinion among these writers as to what kind of crime this ought to apply; some holding it to extend only to *high treason*, *robbery*, and *murder*, while others apply it to minor offences, and even to civil damage; but where the general right is acknowledged, it must be left to neighbouring nations to determine the necessity of enforcing it according as good policy and sound discretion shall require.

3. It is, however, further objected, that allowing the Sovereign may have the power to deliver up a criminal to another state, yet that such power cannot be exercised by the Governor of this Province, who as the servant of the Crown cannot be considered as vested with the exercise of such high prerogative—or at furthest, it is necessary to show that by his commission he is vested with this authority.

It would certainly be considered rather extraordinary that this, or any other prerogative of the

Crown, necessary to be extended to every part of its dominions, and none more than in this province, should require either the personal presence of the sovereign, or his express mandate in every case of the exercise of his right. This would render it nearly impracticable, and certainly most burthensome to the subject when seeking to derive a benefit therefrom. But the prerogatives of the Crown do not rest on this limited principle, they are equally in vigor in all its possessions, and may at all times be exercised when necessary for the general welfare. The principle as laid down by eminent crown lawyers and explained by Chitty; (*Chitty on Prerog.* 32, 3. 1 *Chalm.* Op. 282, 3.) is, that the King's Prerogative in the Colonies, unless where it is abridged by grants, &c. made to the inhabitants, is that power over the subjects considered either separately or collectively, which by the common law of England, abstracted from acts of Parliament, and grants of liberties, &c. from the Crown to the subject, the King could rightfully exercise in England; that is, that the common law of England, with respect to the Royal Prerogative, is the common law of the Colonies. As, therefore, the prerogative rights in Canada are the same by law as in England, how are they to be exercised but by his majesty's representative in the colony—governors of colonies, (*Chitty on Prerog.* p. 34,) although but the servants and representatives of the king, yet are in general invested with royal authority, and exercise many kingly functions. It is true, they cannot declare war, nor make treaties, nor

do many other acts of royal authority, which involve the interests of the whole realm, but what regards the security, the interest, or the honour of the province over which he presides, every governor of a colony, as the king's representative, must hold and be authorised to exercise all royal prerogative incident to that situation, as a thing requisite for the maintenance of the public welfare, unless it has been particularly excepted and reserved by his commission. The governor is answerable to the king for this exercise of the prerogative, and for the right discharge of his duty; and if, in the case before us, the party be aggrieved, the question must be settled according to the principles of international law, between the sovereign of that country to which the prisoner belongs, and the king's majesty, but not by his courts of justice.

4. It has also been objected that no demand appears to have been made by the American Government; or by any of the American States, for the surrender of the prisoner. But it is not for the court to inquire into this. The nature of the demand, and the sufficiency of it, must be best known to the executive to which it is made, and which alone is competent to determine, how far the royal prerogative ought to be exercised. What we have to determine is, whether there was legal ground for the arrest and surrender of the prisoner, and we hold there was. By the warrant of his excellency the governor in chief, to the sheriff, the latter is authorised to convey and deliver up the prisoner to such person or persons

as according to the laws of the said state of Vermont, may be lawfully authorised to receive him, that is, the executive authority of that state, and we must presume, it was the same authority which demanded him. This is not, however, a question for our consideration.

But the prisoner comes before us in a very different character from that of a subject to whom protection is due, as of right, he is an alien, to whom protection is not due, if the king sees fit to withhold it. The observation of Judge Tilghman may well be applied to him—"That he cannot force himself into the king's territories, and say, you shall protect me." It is held, (*Chitty on Prerog.* p. 49, 1, *Bl. Com.* 259, 260.) that alien friends may lawfully come into the country without any license or protection from the crown, though it seems that the crown, even at common law, and by the law of nations, possesses a right to order them out of the country, or prevent them from coming into it, whenever his majesty thinks fit—and the reason given is (*Ch. Crim. law*, 1 vol. 131, and 143, *Note [a]*) that it is inseparable from the governing power in any country, that it should be able to take precautions against foreigners residing in such country, and particularly in a country where foreigners are only amenable to the ordinary laws. The prisoner came into this province under suspicious circumstances, charged with a felony—as an alien his conduct did not merit protection, unless he had come with a fairer character—and he ought not to be surprised, nor complain that

his majesty's government should direct him to be taken back to that country from which he came.

Upon the several grounds alleged therefore, the Court have no hesitation in saying, that the prisoner cannot be liberated from the

restraint under which he is held, but that he must be remitted to the custody of the proper officer for the execution of the warrant issued against him in the name of his majesty.

### CONSPIRACY AGAINST WILLIAM MORGAN.

At the Ontario Sessions, held in this town last week, came on before the Hon. Nath. W. Howell, first judge, and judges Price, Atwater, Brooks and Loomis, the trial of Hayward, Howard, Seymour, Roberts and Ganson, and the following jurors were sworn: Ira Case, of Phelps; George Brundage, Hopewell; Allen Brown, Bristol; Isaac T. Holmes, Manchester; John Nicholson, Phelps; Josiah Moffett, do.; John Woodhull, do.; Adonijah Skinner, jr. Hopewell; Gideon Hurd, Gorham; Jeremiah Like, Manchester; Apsen Howell, Victor; Nathan K. Pound, Farmington.

The indictment contained four counts, viz. First count for a conspiracy to take William Morgan from the jail of Ontario county, to kidnap and remove him to foreign parts without the jurisdiction of this state, and to secrete and confine him there, and that they actually carried the conspiracy into effect. Second count, same as first, only charging the conspiracy to remove him to parts unknown. Third count—for kidnapping and forcibly carrying Wm. Morgan from the jail of Ontario county, to foreign parts, to wit, to Canada. Fourth count for as-

sault and battery and false imprisonment.

Counsel for the People: Messrs. Whiting, (district attorney) Wilson, Dickson, Talbot and Benjamin. For defendants, Messrs. Marvin, Sibley, Penfield, Adams, Hubble and Barnard.

Mr. Whiting then addressed the jury in substance as follows:—

Nearly an entire year has passed away, since the abduction of William Morgan, and yet we have no knowledge of his fate. If it was proper to bring the perpetrators of that crime before courts of justice, to answer for the breach of the laws, and to receive punishment for that great and unparalleled violation of the liberty of the citizen; it is now *more* proper than ever—for time has confirmed our tears, and left the community fully justified in the belief that their worst apprehensions for Morgan's fate, have been well founded. It is therefore just and proper that these prosecutions should be persisted in, till the laws are vindicated, and the guilty brought to punishment. There is one advantage, however, which we can and do derive from lapse of time, in relation to our enquiries. The excitement which follows the commission of great offences, has

in some degree subsided; and though our views of the enormity of the transaction are the same, yet now, when passion is silenced, we can deliberate upon this subject with calm and sober judgment; and in whatever we may do, we proceed with that dispassionate reflection, which should always mark the conduct of men deliberating upon great and serious objects, and the right decision of which, concerns the best interests of public liberty, and the private security of the citizen.

The crime with the commission of which the defendants stand charged, is that they conspired together to secure and falsely imprison William Morgan, that in pursuance of such conspiracy they seized him by force, and carried him against his will, and without any legal warrant or justifiable cause, to parts and places without the territory and jurisdiction of the state of New-York, and in one count to parts and places unknown. They are also charged with having assaulted him, seized him, falsely imprisoned, secreted and detained him, from the day of his caption to the time of finding the indictment.—These charges constitute the offences committed by the defendants and others, against the laws of this state, in the forcible and violent abduction and detention of this man—as the law existed at the time of committing the offence.

In order to prove a conspiracy, it is not necessary to establish the fact that a conspiracy was actually formed, and a precise agreement entered into: the conspiracy and confederacy among men to effect an unlawful purpose, is derived

and inferred from their acts and conduct—and hence if it be established that two or more men are committing acts which tend to the perpetration of a crime, or to the injury of an individual, the law infers that they act in pursuance of an agreement previously formed; and there is good reason for this rule: for if the prosecutor were held to prove a positive agreement among conspirators, justice would in almost every instance fail. Men do not call witnesses to their criminal intents and conduct—offences are designed and generally committed in secret, and in such manner as to elude observation and detection. The rule, therefore, in this case, is one of necessity and of salutary effect; and by it, your view of the offence charged on the defendants will be governed.

The facts which gave rise to the conspiracy which, I am authorised to say, existed among the defendants and others, are, briefly—That this William Morgan was compiling a book professing to reveal the secrets of masonry—which book was printing at Batavia, by David C. Miller. The means of suppressing or preventing the publication of that book, was a subject of deliberation among masons in various parts of the country—and we expect to be able to show that it was determined that the only effectual mode of preventing that publication, was the removal of the man; or, having the power over him, to prevent his agency in the work. If they should have obtained possession of the papers then prepared by him, he could have written others—so that without the power

of preventing his ability to write, their project would have been useless. In pursuance of this plan, and governed by these views, we say that these defendants procured a warrant for Morgan from a magistrate in this county, went to Batavia and brought him here; on his examination he was discharged. He was then committed to jail, on an execution for a debt due one of the conspirators, and on the next evening (12th September last) was decoyed from the jail, and by force seized by several men, put in a carriage, driven to Rochester,\* and from thence to Fort Niagara, at which place all intelligence ceases; and every inquiry as to his subsequent fate, has proved fruitless and unsatisfactory. Now I am not bound to prove all these facts, as to his removal to Fort Niagara; if I can show him in their hands, by force, and that they removed him secretly, it is enough. The man is then in their custody, and the laws, the sovereignty of this state may demand him at their hands. If they had right thus to arrest a citizen, and thus to transport him, let them show it. But if they do not, we have a right to infer that their acts were lawless, and to charge them with the destruction of the liberty of this unhappy man—and if his blood be shed, that also is upon them. With this brief statement of the law and the facts, I invite your close attention to the testimony which I will now proceed to introduce,\* and refer you to that for a particular knowledge of the case.

Mr. Whiting then introduced witnesses to sustain the indictment.

*David C. Miller*, sworn. Says that he resides at Batavia; knew William Morgan; he resided at Batavia in September last, and for some months previous. Morgan had been engaged for some time previous in writing a book on Free Masonry. Witness published a newspaper at Batavia; notice of the book was not published in the paper till after Morgan was carried away; but it was reported several weeks before that Morgan was so engaged. This excited a great deal of interest. Morgan was taken from Batavia on the 11th of September in a carriage with several persons. Witness knew only one, Mr. Hayward, who was an officer. Morgan's family then were, and still are in Batavia. Morgan has never returned, nor been heard of to the knowledge of witness, except in passing from Batavia to Canandaigua. On the 11th of September, Monday morning, witness rose late, sun an hour and a half high; when witness heard that Morgan was arrested on a warrant, and was at Danold's inn. Witness went in pursuit of counsel, and therefore did not see Morgan till he was in the carriage. Witness came up and spoke to Morgan, and asked him to get out, because witness was bail for him for the jail limits. Mr. Hayward stepped up and said, "Morgan must and shall go." When witness first spoke to Morgan, he paid no attention to the remark, and witness was surprised to see the change in his appearance—his countenance assumed an ashy paleness, his eye was glassy and set. \* Witness then spoke to him with vehemence, at which Morgan started, and was in the act of

rising, when some one sitting by his side, put his hand on his thigh, and said in a low voice, "sit still." Witness does not know whether there was one or two persons on the same seat. Immediately, Mr. Danold, the innkeeper, seized witness by the shoulder and turned him round, and shut the carriage door with violence. The officer, Hayward, ordered the driver to "go on," and the horses started off full speed. One of the party was left behind; cannot state how many persons were in the carriage, but should say four, or five. Thinks one of the party sat on the box with the driver, and that the person left behind was the one who said to the driver "go on."

*Cross examined.* Has heretofore been examined as a witness as to this matter, at Batavia, and gave a very full and minute history of the transactions, commencing with what he has testified here. Don't remember that he said at that examination any thing as to Morgan's looks, when he saw him in the carriage. Did not know Hayward at the time, but has since seen him and recognizes him. Does not remember that any one said to him, "if you have any authority to keep Morgan, show it," no such thing was said.

*Doct. Samuel Butler*, sworn. Last September, he resided in the town of Stafford, and Major Ganson also. Ganson kept a public house there; witness was at Ganson's the Sunday evening previous to the abduction of Morgan. When witness went in, there were none there but neighbours. Started to go home, when he saw a coach driving up, and some one called him back; was introduced

by Ganson to a stranger said to be from Canandaigua—don't remember the name, but thinks it was *Sawyer*, or *Seymour*. The stranger took witness by the arm and walked out a few rods towards the stone building, and said, *we* or the *officer*, has a warrant for Morgan. Witness asked, "what do you expect to effect, by taking Morgan?" Don't remember that any reply was made, and they walked into the dining room: several persons were there—A Mr. Edy, Ella G. Smith, a man by the name of Pratt, and the party said to be from Canandaigua. Did not know any of the party, and cannot now identify any of them. In the room, saw the strangers, and asked them the same question, "What do you expect to effect by taking Morgan *away*?" told them that he thought it was bad policy. Some one of them replied, "*we*, or *I*, have started for that purpose, and shall go on." Had not been informed that a party were to come from Canandaigua that evening for any purpose—was told by some of the party that the warrant was for *theft*. Witness was going to Batavia, and was asked by some of the party, to inform Mr. Follett and Major Seaver, that they were coming. Witness went to Batavia and saw Follett, and informed him that they were coming for the purpose of taking Morgan. Follett replied, "I wish you would go back and tell them not to come, for our village has been troubled enough." Witness returned, and met about two miles east of the village a carriage, which he supposed to be the same party: Major Ganson was with them: witness told them what Follett had

said. The strangers got out; one said, I have started for Batavia, and I shall go. The coach turned back, and the strangers went on on foot. Ganson returned with the carriage, and several others with him. There was a little waggon in the company, which also turned about; it was then 8 or 9 o'clock in the evening. Witness had two or three weeks before been informed that Morgan was engaged in publishing a book on the subject of Masonry. There were more than six strangers in the carriage. It was common talk that Morgan was publishing the book. Previously he talked with Ganson, but don't remember any thing he said in particular. Ganson told him, either that there was to be, or that there had been, a meeting at his house of delegates from Rochester, Batavia, Lockport, and Canandaigua, and witness understood that the suppression of Morgan's book was the object. Don't remember that he was at Ganson's the morning after the meeting: don't remember that he was introduced to a member of the meeting. On the evening of the day on which Morgan was carried away from Batavia, witness saw Ganson at Peck's tavern in Stafford. Kelsey Stone, Mr. Edy, Mr. Towner, and several others, with Major Ganson were there. The object of the meeting was to get the papers from Morgan. Witness was in a hurry, and was requested to stay until he understood the arrangement. Ganson, witness supposed, entered into the arrangement. Ganson was asked whether it was best to go to Batavia, and should think he was in favour of it. Nothing was said of

carrying Morgan away at that meeting.—*Cross examined.* Ganson's house was a stopping place for the stages at almost all hours of the day and night; was informed that the charge against Morgan was for theft; did not understand that any other object was in view but the taking Morgan on the warrant. The public meeting was for the purpose, as he understood, of consulting about the measures to be taken relative to the book. Major Ganson commenced packing his goods on Sunday evening, and he was engaged on Monday, Tuesday, and Wednesday in packing and moving his goods.—*By the District Attorney, again.* The carriage had probably been at the house three or four minutes when witness was called back, witness was about ten rods from the house. *Cross examined.*—Heard some of the company say they wanted supper, but did not hear Ganson's answer.

*Francis Hopkins, sworn.* Lived in Batavia in September last, and on Monday morning, 11th of September, drove a stage from Batavia, Mr. Chesebro, Harris Seymour, Holloway Hayward, and others, went in it. Hayward was the officer. Wm. Morgan was also in the carriage. Don't know any other names; has seen one of the persons here, but don't see him now. Chesebro was on the seat with witness, and wished him to drive fast till he got out of the county, which witness did. Chesebro wished him to drive fast, because he expected some persons would follow to rescue Morgan. Before witness got out of the village, he made a halt for Seymour, who was left behind, to come up.



Witness was unwilling to go on, feared he was doing something wrong; was told at Batavia, by some one, that Morgan was on the limits at Batavia, and he did not know but he should be hurt for taking him away. They promised to get Ganson to indemnify him, and when they got to Stafford, Ganson passed his word.—*Cross-examined.* When they arrived at Ganson's, some one of the party spoke to Ganson, and said he had told him, (witness,) that he (Ganson,) would save him harmless for driving, and he asked him if he would. Ganson said he would indemnify him, and told him to drive on. At the time they urged witness to drive on he told them that a driver had got into difficulty for driving a person from the limits; and just before they started, one Davids told witness that they were going to smuggle away Morgan; and witness therefore was afraid to go without indemnity. They stopped at Le Roy and took refreshments; Morgan got out of the carriage, and witness drank. At Ganson's, Chesebro and one other person got out; saw no private intercourse between Ganson and any one of the party. Witness did not go in till after he had watered his horses. There was nothing particular in the conduct or conversation of the party, except that Mr. Chesebro rose up several times to see if any one was coming. Said if they did come for Morgan, they should not take him alive, and frequently wished him to drive fast.

*William R. Thompson, sworn.* Has no knowledge of having seen any one of the defendants now on trial in Batavia, on the 10th or 11th of September last.

*Israel R. Hail, sworn.* Was at Le Roy, and saw there on Sunday evening, 10th of September, a post coach pass, with Chesebro, Hayward, Howard, and he thinks Voorhies and Roberts. At the time the carriage passed, he thought he knew the whole of them. Can't say that he saw Harris Seymour. Witness was in the house at the time, about two rods from the street.

*William R. Thompson, —*Wishes to correct his answer; says that he did see Chesebro at Batavia the morning Morgan was brought away. Chesebro asked for Morgan; witness asked what he wanted; Chesebro said he had a warrant for him (Morgan); witness told him Morgan was on the limits, and if they took him away it would be at their peril.

*Nathan Follet, sworn.* Saw Chesebro and Seymour at Batavia on the morning of the 11th of September last, saw Doct. Butler on the evening of the 10th of September. Witness was at Danold's on the morning, when the party left for Canandaigua. Had some conversation with Chesebro in the morning, relative to the object of their visit.

*Jeffrey Chipman, sworn.* Says that on the 11th of September last, Morgan was brought before witness, who was a magistrate; went into an examination: Hayward was there also, Isaac Everston, James Lakey, Loton Lawson, E. C. Kingsley, Timothy L. Bogue, N. G. Chesebro; these he knows were there through part or the whole of the examination; thinks he knows others were there also; has the impression that he saw Seymour at the door, and Roberts in the room. The examina-

tion resulted in the discharge of Morgan; and Chesebro, as assignee of Aaron Ackley, asked for a warrant against Morgan, for a small debt. Chesebro made a bill of about two dollars; Morgan said that he did not intend to go away and leave any bills unpaid and he supposed that was paid.— Judgment was entered, and execution issued without oath. Morgan took off his frock coat and offered it to the constable, and said he should be able to redeem it the next day. The Execution was in the hands of Hayward, who declined taking the coat, but for what reason, witness does not recollect; supposed it was because Hayward was unwilling to take away the last coat Morgan had. Hayward asked Morgan to walk out the door with him, which was the last witness saw of him. Thought the coat was rather old, though he saw no holes. Amount of Execution, damage, &c. was \$2 69.

On Sunday morning the 10th of September, Chesebro called between 9 and 10 o'clock, at witness' house, and told him he wanted witness to go to his office to issue a warrant. Chesebro came soon; witness asked whom the complaint was against? and Chesebro answered Mr. Kingsley will be here soon. Kingsley came in and stated the facts, that Morgan borrowed a shirt and cravat of him, and his oath was satisfactory to witness, who issued the warrant and gave it to Chesebro. In the course of the business, witness asked where Morgan was? Chesebro said he was within six miles to the west. No other person had ever spoken to witness about issuing the warrant. Had

heard Dr. Lakey speak of Morgan as a bad man; not worthy to be trusted, and that he went away without paying the bill at Ackley's and Kingsley's. *Cross-examined.* None of the defendants in this cause appeared at the examination of Morgan; the commitment was endorsed on a copy of the examination, by witness, at the time.

*Ebenezer C. Kingsley, sworn.* Knows a man called William Morgan, who was at his house in May, 1826. Doctor Lakey asked witness to go into Chipman's office, after which a warrant was issued against Morgan. Witness objected to the manner of recovering his property. Several persons were in the office, who advised witness to get out the warrant, among whom were, Hayward, Lakey, Chesebro, and he thinks Roberts. Lakey had before told witness that Morgan was a man not to be relied on. Chesebro told witness that Morgan was not a mason; that it was best to send for him. Lakey spoke much and frequently against Morgan. When Morgan first came to stay with witness, he was very well received by Lakey, Chesebro, and Howard, and considerable attention was paid him. Witness would not have taken the course he did, were it not for the printed and verbal representations he had seen and heard. *Cross-examined.* When witness went into Chipman's office, a paper was presented to him in the form of an oath, which witness objected to, because the amount was small, and he did not think the offence amounted to *stealing*. Witness had a conversation with Lakey and Chipman, in relation to Morgan, on or before Sunday morning,

the 10th of September, which he spoke of in his direct examination—don't know which introduced it. Witness has said that the brother masons of Morgan ought to pay for his property; had publicly stated in his bar room, before the 10th of September, that Morgan had stolen his articles. Doctor Lakey always appeared to be indignant at Morgan's conduct in that matter, and seemed to think witness ought not patiently to suffer it. *Cross-examined.* Lakey told him that he would rather pay for the property himself than have a person who belonged to the same fraternity he did so disgraced. Witness did not request Chesebro to get a warrant.

*Aaron Sickley*, sworn. Says he never saw Morgan but once; Chesebro was never assignee of a debt of his against Morgan; Morgan never owed witness any thing; witness never gave Chesebro any authority to prosecute in his name. Witness was informed by his family that such a man as Morgan had been at his house four days.—*Cross-examined.* Witness made an assignment to Chesebro, Wilder, Beals and Palmer, on the first of March, 1826, for one month, and they put one Ingraham into the house.—The assignees continued, however, to exercise their power until the 19th of August. There was a clause in the assignment, by which, if witness chose, it could be continued longer than one month. There was a list of names and accounts left by Chesebro with Chipman to be collected. Witness never saw Morgan's name on the books—understood that Ingraham had made a list

of accounts and given it to Wilder.

*David Danolds*, sworn. Kept a public house in Batavia in September last; there was a party at his house about that time said to be from Canandaigua. Knew no one but Seymour—now recognizes Hayward—it was the same time that Morgan was taken from Batavia—witness guesses it was on Sunday evening they were there—Morgan went away with them the next morning. *Cross-examined.* Morgan came to witness' house with one of the party, sun about half an hour high. Morgan took breakfast with the rest of the party and the boarders; his bill was paid by one of the party from Canandaigua; saw Morgan get into the carriage; saw nothing in taking Morgan away different from taking away any criminal, and don't know as he should have known that he was a prisoner if they had not told him. Breakfasted that morning as usual at 7 o'clock.

*Israel R. Hull*—was Jailer in Sept. 1826, when Morgan was committed; but was not at home.

*Mrs. Mary W. Hall*, sworn. Is the wife of the Jailer; Morgan was in jail, and on Tuesday the 11th or 12th of Sept. between 9 and 10 in the evening, he was released. When he was released, Lawson took Morgan by the arm, and while she was locking the door witness heard the cry of murder, went to the door, and Lawson and another man, with Morgan between them, were going to the east, Morgan trying to cry murder. Lawson was most instrumental in procuring the release of Morgan. Lawson, Chesebro, Sawyer, and a man witness sup-

posed to be Sheldon, (called Foster) were there in the course of the evening. After Morgan was out of the door, witness heard a rap on the well-curb, which seemed to be the signal for the carriage, as a carriage soon appeared, drove by the Jail, and returned back again. Witness refused at first to discharge Morgan; Lawson told her that Mr. Hall would not be injured, but she refused to let him go until Chesebro came. *Cross-examined.* Did not see any of the defendants there; saw the person who struck the well-curb, and thinks it was Sawyer.

*Mrs. Martha Davis*, sworn. Saw two men standing about 9 o'clock near Hull's shop—they came towards witness, she went in—one man passed and she came to the door—the other man came along, and it was Chesebro—witness, concluded she was not afraid of him, and said "good evening, Mr. Chesebro." They both set down, afterwards Chesebro got up and went towards the Jail—He and Sawyer walked towards Atwater's shop—witness soon saw several men, heard a whistle and heard the bars of the prison door open, and soon after they came out; some one cried murder, and the voice seemed to be suppressed; they went east from the jail, witness saw a person opposite near Pleasant-street, whom she thought from his dress to be Chancey Coe. This was before the carriage came, and before the prison door was opened. *Cross-examined.* The man she supposed to be Coe, she knew by his clothes—he had light pantaloons and a light coat.

*Samuel Greenleaf*, sworn. Says

that Chesebro paid him for a cab which was said to have gone to Batavia—Bill dated 10th Sept. 1826.

*Willis Turner*, (black boy) sworn. Says he will be 21 years old in August. Witness came out of Mr. Atwater's gate for a pail of water, and saw Chesebro and Sawyer—as they went on Sawyer picked up a stick—witness went on towards the well by the jail, and they followed, till coming to the well turned towards the jail; soon saw three men come down the jail steps, and one cried murder. Sawyer came to the well and gave two raps, and then went on towards them, and Chesebro put something into the mouth of Morgan. Morgan held back and leaned down, so that his hat fell off, and Sawyer picked it up—pretty soon the carriage came down, drove by Hiram Hubbard, and went where they were. Morgan was put in—they did not make much fuss in putting him in—the carriage turned before they got in. There were four persons besides Morgan. *Cross-examined.* Witness heard the cry of murder, then saw them come down the steps—when witness came out of the gate, Chesebro and Sawyer were coming up; witness went down and they up; they turned back and came past him just as he got his water drawn—the handkerchief was put in Morgan's mouth just as they were going down the pitch towards the tavern. Witness was near the well when Sawyer struck the curb—when the two men with Morgan were going towards the pound, Chesebro and Sawyer were with them—Sawyer did not overtake them immediately, as he stopped to pick up the

hat. All the men got into the carriage—none were left, and witness saw none in the street; witness thinks Mr. Osborn picked up the hat and handed it to Sawyer and asked him what was the matter—Sawyer replied, nothing, only a man is discharged from jail.

*Asa Nowlen, sworn.* Resides at Avon. On Sunday, 10th or 11th of September last, a party stopped at Avon. Harris Seymour was the only one he knew; was introduced to the others, who were Mr. Chesebro, Mr. H. Hayward, Henry Howard, a Mr. Roberts, and a man by the name of Scofield. Voorhies was not in the stage. Got on the box with the driver and rode as far as Hosmer's. Mr. Butterfield joined them at Caledonia, Mr. Smith at Le Roy, and Major Ganson at Stafford. Witness went within two miles of Batavia, when the party from Canandaigua all got out, and the carriage returned. Witness never knew why the carriage returned until he heard Doct. Butler testify. The Canandaigua party went on a foot. Understood they were after William Morgan, with a warrant for stealing some wearing apparel. Witness returned because he had no object in going any further. Did not know any person they found at Ganson's—saw the man who appears to be Doct. Butler—heard no reason given for the carriage returning, but from what he heard of the doings at Batavia, he concluded to return. Saw a number of persons at Ganson's, from 10 to 20, including the party from Canandaigua. Major Ganson returned on the box. Witness did not see him, but had no doubt that he was on the box—did not know that they met any one in go-

ing to Batavia, but supposed that they did, because the carriage was turned about. Witness did not designedly avoid hearing the conversation, nor caution Mr. Butterfield not to hear it—there was probably something said about Morgan's book, but don't remember what it was. The principal conversation between Avon and Caledonia was as to the legality of proceeding on the warrant without its being endorsed by a justice in that county. Did not hear any thing said when the carriage turned round, only that the carriage would return. The carriage returned as far as Le Roy—saw the party next day at Avon, and Morgan was with them. *Cross-examined.* Did not know that any of the party were masons when he joined them, nor does he think that any of them knew he was a mason. There was no objection at all made to his riding—at Ganson's did not discover that the conversation was private—he might have heard it—did not hear or see any thing on the way which led him to suspect that the party had any other object in view than to take Morgan on the warrant. Witness had also heard that Morgan was on the limits, and therefore thought there might be trouble; does not recollect of hearing any conversation between Ganson and the Canandaigua party, except the conversation at the supper table, about the provision, &c. The doors of the room were open at Ganson's, and there was no effort that he saw to keep secret.

*George Ketchum, sworn.* Says that he knew Morgan three or four years ago in Rochester. Witness was in Canandaigua last September, and while here, Morgan was

said to have been carried away. While in Canandaigua, witness saw Chesebro and Coe, neither of them known to witness at the time, saw also Evertson and Seymour. Had a conversation with Evertson and Coe, but not with Seymour. Chesebro told him he believed Morgan was taken out of jail the night before, by a man calling himself an officer from Pennsylvania; witness inquired of no other person for information. Evertson and Seymour were present when Chesebro made the above remark, does not know that Chesebro was so near that they heard the remark. The conversation was held in the front room of a store below the square, had no other conversation with either of them. *Cross-examined.* Saw Coe after he had seen the others, and asked him for Morgan, because he understood that Morgan came in his stage.

*Mrs. Lucinda Morgan*, sworn. Is the wife of William Morgan; was in Canandaigua in September last; came with George Ketchum, and on her return saw Major Ganson at Le Roy: asked him if he thought she should ever see Morgan again? He replied, "If you don't see him in a year, you must not be surprised, and if you don't see him at all again, you shall be handsomely supported, and your children educated." Ganson said he was glad to see her, for he was going to Batavia to make arrangements for her support. This conversation was had in the stage. Ganson got in the stage at Le Roy. Witness has not heard from her husband since he was taken from Batavia; has heard that he was taken to Canandaigua—great exertions have been made to obtain information of him. Has a family

of two children. *Cross-examined.* Ganson saw witness on her way to Canandaigua, and knew her business—when witness returned, Ganson probably saw that she was much affected before she asked the question about her husband. Ganson got into the stage at the stage house, as she supposed. She got out at Le Roy. Ganson came and shook hands with her, and said as before stated, he was glad to see her. Several persons were in the stage at the time Ganson made the above remarks to her—all strangers to her—one or two of them were ladies—one or more sat behind her—the conversation was in Ganson's common tone of voice. Don't remember what Ganson said when he first came to the stage, but he helped her child out of the stage; Ganson held no conversation with her in the house; has never been talked to a great deal about her testimony. Witness was examined at Batavia on the trial of Major Ganson, and was inquired of relative to this same conversation of Ganson's, and thinks she gave the same account of it. Witness made an affidavit, which was published, but does not recollect whether this conversation of Ganson's was inserted in the affidavit or not. Several persons, certainly two, spoke to her at Batavia about her support, but Ganson did not speak to her on the subject at Batavia.

*James Sibley*, sworn. Says he had a conversation with Harris Seymour, one of the defendants, shortly after the abduction of Morgan; Seymour said, we went out to Batavia for Morgan, and brought him in; and went on to state the manner of proceeding, and what was done: said that

when they got Morgan into the carriage at Batavia, there was some people who tried to prevent their coming away, and got hold of the carriage, but that one man in the carriage jammed their hands off, and they started immediately. Seymour was not in but got left, and had to run on foot; told how Morgan was brought into Canandaigua, examined, and acquitted before Chipman; that then one man accused him of owing him two dollars, and he was committed—also told him, that a certain man went to the jail, and pretended to be very friendly to Morgan, and offered to pay the debt, invited him to go home with him that night, and offered him money.—That there was some difficulty on the part of Mrs. Hall and Morgan both, but finally the man succeeded in getting him out, and took him by the arm and led him along till he met another man, whom he introduced to Morgan, by a false name, and as a friend. That they took Morgan out into the street, where they met some other men (whom he named) when Morgan resisted, and something was said about his being bound or blindfolded; but what he cannot say. Morgan was put into the carriage, and carried out somewhere near Hanford's landing, and was then put into another carriage and carried to Fort Niagara; there he was confined in the powder house, and that was the last they had heard of him. Witness had a conversation in Canandaigua, relative to the disposition of Morgan, in order to prevent the publication of his book; had often heard that the book was to be published, and that measures must be

taken to stop it. None of the defendants in this cause ever said any thing to him on this subject. A person came and wanted witness to introduce him to an individual in the village. [The counsel for the prosecution called on the witness to disclose the names of the two persons, and the court on argument, decided that the question might be put.] The man from Batavia, was C. C. Church, silversmith, and the man in Canandaigua to whom he was introduced, was N. G. Chesebro.—Church told Chesebro, that Morgan was going on with the publication of the book, and would publish, unless means were taken to suppress it. Chesebro said that the book must be stopped, and Morgan must be taken care of. Church did not assent or dissent; he appeared only to wish to communicate it to Chesebro and hear what he had to say on the subject. Witness never heard Chesebro say any thing about it at any other time. Never heard Chesebro say any thing of Morgan's being taken away, till several days after he was carried away. Heard Hayward say he went to Batavia as an officer, and was bound by his oath of office to bring Morgan to Canandaigua; never heard him in any manner admit that he was assenting to the carrying away of Morgan. Has heard Henry Howard say he went and returned in the carriage, but no more. Seymour did not say that he was telling witness what had been heard from others, but merely went on with the story, saying they did so and so. *Cross-examined.* Church is a silversmith at Batavia; witness a silversmith at

Canandaigua. Church bought nothing of witness at the time, witness knows of no business he had here, unless the communication concerning Morgan. Thinks it was about a week after Morgan was carried away, when it became a matter of public conversation.—Witness did not tell to any one, what Seymour had communicated to him; thinks the first public report was that Morgan was carried to Fort Niagara, and afterwards that he was taken only to Genesee River. Witness had heard that Morgan was carried away, and asked Seymour how it was, and he then told him the story. Witness did not understand that Seymour had any thing to do with taking Morgan away. Seymour said he was called on and requested to go to Batavia, to see something about the book, but knew nothing of what was to be done. When they got there, they took Morgan. Seymour related the Batavia transaction, by saying “we,” and the transaction at the jail by saying “they” did so. Witness had heard that Morgan was carried from the jail before he inquired of Seymour; but he had not heard where he was taken, and for the purpose of learning this, he made the inquiry.

*Harry Olmsted, sworn.* Lived in the town of Greece, in the county of Monroe.—About the middle of September last, one morning very early, between daylight and sunrise, saw a carriage with grey horses standing in the road a little south of Hanford's brick tavern. As witness passed by the carriage, the curtains were buckled down, the horses appeared a good deal tired, and had been

sweaty, but were then dry. There was a man sitting on the driver's box. Witness went into his cornfield, and when he returned the carriage was under Hanford's shed; in about three quarters of an hour or an hour after, saw the same carriage come back from the Ridge Road, the curtains rolled up, and 4 or 5 persons in it; the nearest public house on the ridge road is 2 1-2 miles; don't think the carriage could have gone on so far as that; did not know any of the men in the carriage. *Cross-examined.* Witness did not see the carriage go under the shed, driver was not on the box under the shed. Witness next saw the carriage coming off the ridge road, then about 15 rods up the ridge road, from the intersection of the river road; witness lived opposite this intersection.

*Joshua Christopher, sworn.* Lived at Rochester last September; knows of Hiram Hubbard—saw him in Rochester about the middle of September with his carriage, a little before breakfast; this was the next morning after Morgan was said to have been carried off. Asked Hubbard where he had been? He replied he had been somewhere, but witness does not recollect where; Hubbard had a pair of grey horses; Hubbard said he had been driving all night. Witness has since joked Hubbard, but he has always said he did not know the persons in the carriage.

*Ezra Platt, sworn.* Lived in Rochester last September, and kept a livery stable; not far from the middle of September last hired a carriage to some persons to go west; cannot say to whom. Pre-



vious to the installation at Lewiston, in the morning before he got up, witness was awoke and inquired of by a person out of the house if he had horses and carriages to let; answered he had. Witness asked, either who wanted it or where it was going, and was answered it was going to Lewiston to the installation of a chapter. Was directed to send the carriage to Ensworth's; got up, called a driver, and ordered a carriage to be taken to Ensworth's. Cannot remember the name of the driver, does not live with him now. Thinks his name was Parker or Parkhurst; don't know where the driver is now. Thinks he sent a yellow carriage, no person ever paid for the carriage. Witness supposed when the carriage was called for, that it was going to carry the officers of the delegation who were going to instal the chapter at Lewiston. Has never been able to learn who was in the carriage. By comparing dates, he has been able to ascertain that this was on one of the days in which Morgan was said to have been carried away.

*Solomon C. Wright*, sworn.

Lived last fall on the ridge road in Niagara county, town of New Fane, and kept a public house; does not recollect a yellow hack stopping at his house about the middle of September, remembers that several hacks stopped there, and one drove into the barn; more than one drove into his barn; one arrived in the afternoon and left after candle light—don't know whether the curtains were up or down; don't know that any body came in the carriage. Several men were at supper at his house; come about the same time the carriage

came, and went away about the same time the carriage did; but whether the men came or went away in it, witness does not know. There was no supper carried out of the house to any person to his knowledge. Should say the party came into the house before the carriage drove into the barn. Jeremiah Brown was at his house while the carriage was there, but witness does not know that he went or came in the carriage; carriage stopped about four rods from the door of the house, between the house and barn. *Cross examined.*

The installation at Lewiston was a matter of public notoriety, and there were many people passing and stopping at witness's house, which made him very busy.

*David Maxwell*, sworn. Was

gate keeper last fall on the ridge road, in Niagara county; in the evening of the 13th of Sept. about 10 o'clock, (or the evening before the installation at Lewiston,) a carriage passed the gate. Witness was sitting up alone—thought he heard a bozz on the hill 8 or 10 rods from the house; soon thought he heard a carriage pass; opened the door and met Jeremiah Brown; witness said, "How do you do, Capt. Brown?" Brown made no answer, but handed him the toll. The fact of his not answering, and of witness's seeing him there at that time of night, witness thought singular, and it made him ask, "What is the matter?" Brown answered, "nothing." The next morning about sunrise, a carriage came back, and Capt. Brown in it. Witness was that day drawing stone for his house, and did not see any other carriage pass. From the best of his belief, it was Capt. Brown at the door.

*Eli Bruce*, sworn. Lives at Lockport; is the sheriff of Niagara county; knows Jeremiah Brown. (Here the public prosecutor asked witness if he knew that Morgan was in the carriage that passed the gate at Maxwell's. The question being objected to, the court said he need not answer. Public Prosecutor asked witness if he was at Wright's tavern on the evening of the 13th of September last? Witness objected, but the court said he must answer; he replied he was there; saw none of the defendants there; saw Burage Smith in the afternoon, was not allowed to say where.) Witness was at Lewiston on the 14th of September last, but was not at any place below Lewiston on the 14th, 15th, 16th, or 17th of September. Witness declined answering the question, "were you there on the 13th of September last?" Question, "Did you hear any conversation on the 13th or 14th of September about Wm. Morgan?" the court decided to be irrelevant; also the question, "Did you know Wm. Morgan?"

*Corydon Fox*, sworn. Lived at Lewiston in September last, drove a carriage in the evening of the 14th Sept. [13th?] from Lewiston to near Fort Niagara. Started at 10, 11, or 12 o'clock in the evening; was asleep in the office. Mr. Barton told witness to get a carriage and horses; went with a boy and got them; Mr. Bruce came and told witness to drive into a back street, which he did, and drove near a carriage that was standing there; several persons, (two or three) were standing near, and thinks one person got out of the hack into his. Three or four other persons got in; the hack

was standing without horses; witness started and drove to Youngstown, and stopped at Col. King's, who did not keep a public house. Col. King got into the carriage, and they drove down near the burying ground, about half a mile from Fort Niagara. There they all got out, and witness asked if he should wait for them? He was told no; he might go back about his business. Witness did not know any of the men who were in the hack, except Mr. Bruce and Col. King. Thinks it was the same day that the lodge was installed that he drove the hack. None of the party were bound to his knowledge; heard no struggling, and saw no resistance. Some one asked for water at Col. King's, but whether it was got or not he does not know.

*Ebenezer Perry*, sworn. Lived at Lewiston in September last. Early in the morning of the 14th of September, witness heard a voice at Barton's stable. Soon after he went to the door, a coach came from the east, and was the same which had been harnessing at the barn, as he supposed; with the carriage, were the driver and Mr. Bruce. Bruce got off the box and went to the coach standing without horses, and witness thinks he opened the door. One man got out of the coach, turned round, reached up into the coach, and another man came out who appeared to be helpless; he was followed by a third who helped him out, and they all went to the driver's coach, and except Bruce got in. Bruce went back and got something like a jug from the coach, and then joined the party in the carriage—the man that he saw helped, he supposed to be in a

state of intoxication. The jug confirmed his supposition. At the time he did not know Bruce, but afterwards saw the man who was with Fox, and was told it was Mr. Bruce, the sheriff of their county. The man who was helped out appeared to have a handkerchief tied round his head.

*Silas Walker*, sworn. Last September lived at Hanford's landing, and on the morning of the 13th of September saw a hack with grey horses coming from the ridge road, about sun half an hour high, either 4 or 5 persons were in it. Knew only one person, and that was Burrage Smith.

*Timothy Fitch*, sworn. Attended the trial of Sheldon last January; (prosecution offered to prove the testimony of Whitney on that trial, admitting that he was at Canandaigua aiding in the taking away Morgan. The court decided that it was improper.)

*Samuel M. Chubbuck*, sworn. Resided in Lewiston last September; did not to his knowledge see Wm. Morgan in Lewiston in September last. Does not know a man called Wm. Morgan. Was at Fort Niagara in last September; did not examine the fort or any part of it to find a man of that name; has no knowledge of any such man being in Niagara county in September last.

*Noah Beach*, sworn. Lived at Lewiston in last September; was there at the installation; does not know and never saw Wm. Morgan; was at Fort Niagara on the evening of the 14th of September; a great many went down in the steam boats; did not go on any business relating to Morgan.

*Parkhurst Whitney*, sworn. Lives at Niagara Falls, was at

Lewiston and at Fort Niagara on the 14th of September; after the installation, two steam boats were lashed together, and a large party went down to the fort.

*Daniel Weaver*, sworn. Last January circuit had some conversation with Harris Seymour, relative to Morgan, at Evernghim's store; a man called to see his account, and Seymour showed it to him, and asked him if he was a jurymen; answered no. Seymour said, "I won't have a *Bloomfield* man or a *Quaker* on my jury." Something was said about Morgan and the trials; witness remarked that it was a bad affair. Seymour replied, "I would go bare foot and bare legged through the snow and through *jopardy* to New-Orleans to do the same thing again."

Here the testimony for the prosecution closed. The defence was then opened by Mr. Adams, as follows:

Mr. Adams said, that the illness of one or the leading counsel for the defendants, had cast upon him the duty of opening the defence; and as he had not expected to be called upon to address any remarks to them in the course of the trial, he must beg leave to bespeak their indulgence, if in discharging this duty, he should be somewhat desultory. He said if the jury, or the respectable and anxious audience, expected that any part of the defence consisted in denying that the offences charged in the indictment had been committed by some persons, they would be disappointed; and if any one expected that the defendant's counsel were about to deny that many of the free masons, and the defendants among them, had wished to suppress the publication

of Morgan's book, he was to be disappointed: whether such wish was criminal, was immaterial to the legitimate purposes of this investigation. The counsel were free to admit that a nefarious conspiracy had been formed to kidnap Morgan; and that he had been violently carried away, under circumstances which had called forth the virtuous indignation of the country; and the counsel for the defendants, and the defendants themselves, hoped that this indignation would be directed against the *proper* objects, until all the offenders should be brought to punishment. They only denied that the defendants had participated in the guilt of these transactions. If this were an ordinary prosecution, carried on under common circumstances, the defendants' counsel would only feel called upon to repose the case of their clients on the insufficiency of the proof on the part of the people: for although much had been proved, which he had been pleased to see had commanded the earnest attention of the Jury, very little had been done to sustain the charges set forth in the indictment against the defendants. He said it was natural, that in listening, as they had, to the whole history of the outrages committed upon Morgan, they should lose sight of the real subject of inquiry before them, namely, the charges contained in this indictment against these defendants. The real issue to be tried, was, are the defendants guilty of what is here alleged? To this he begged leave now to call their attention. He did not intend to say much at this stage of the proceeding, of the testimony which

had been given; but the jury would remember that the only acts proved against the defendants, consisted in what they had done in relation to bringing Morgan from Batavia to this place on criminal process. For this transaction they had some of them been tried and acquitted—and besides, unless this was done, as a part of a concerted plan to carry him away from the jail, it did not involve them in the guilt here charged. Something had been shown of the declarations of Mr. Seymour, respecting his knowledge of the foul means by which Morgan had been removed; and of the fate of the unfortunate man: but on understanding the imposing statement of the witness, Mr. James Sibley, it appeared that Mr. Seymour was only relating what he had learned from others after the dark deed had been done—except in so far as related to bringing Morgan from Batavia. A knowledge acquired after the commission of these crimes, did by no means imply guilt in Mr. Seymour: he might have been stating what was rumour, and what many persons might have related, and even if he had derived that knowledge from some suspected and guilty person, by the use of that key which unlocks the bosom of a brother, it did not implicate him in transactions of which he had no knowledge at the time. He might have availed himself of the relation in which he stood to such person, and have drawn from him this appalling relation, for the purpose of gratifying the same curiosity which prompted Mr. Sibley, in his inquiries, and he might have had in view the further and

higher purpose of rebuke and admonition. Mr. A. said he was instructed to say, that the defendants would show to the entire satisfaction of the jury, that Morgan was brought from Batavia with no other motive than to have him punished for a petit larceny, of which the defendants had good reason to believe him guilty. It was well understood that Morgan was about to publish a book, which would bring dishonour on the society of free masons: The defendants were members of that society, and with many others doubtless wished to have Morgan convicted, if he was guilty, that his infamy as a man, and his treachery as a mason, might make their way together in the community. He said he could not explain *how* Morgan's publication could dishonour free-masonry, for he knew nothing of the secrets of the craft, he had not read the book, and he cared nothing for either.

The defendants would further show, that the plan of bringing Morgan from Batavia, was originated, and the process procured for his arrest, by other persons, without their knowledge; that a coach was hired and they invited to ride before they knew the object of the journey—that with the exception of Mr Hayward, the constable, they had nothing to do with his arrest, detention, conveyance, or subsequent examination and discharge before the justice. That his still subsequent arrest for debt, and commitment to jail on the Execution, was by the sole procurement of Chesbro, when they were at their homes and without the least knowledge of what was doing. That his abduction was

still an after thought suggested by persons with whom the defendants had no communication, and executed while they were quietly pursuing their ordinary avocations, and enjoying at places remote from the scene of violence, the society of their families and friends. The defendants will further show such explanations of the evidence on the subject of the Batavia expedition, as will remove whatever suspicions may have attached from that quarter; and on the whole he felt assured that he should hear from the eminent and faithful counsel for the prosecution, expressions of gratification at the verdict of acquittal which they should return.

Mr. Adams said he ought not to sit down, without adverting again to the great excitement which these outrages had produced, and which had pervaded the community. The indignant feeling that had burst forth and spread with such rapidity, was honourable to the country, and while directed against its proper objects, he wished not to see it subside; but the honest and righteous zeal to vindicate the majesty of the laws and to punish the guilty, might be perverted to the unworthy purposes of a political or personal nature, and when so perverted it would become dangerous. The jury had seen here and elsewhere, sufficient to admonish them that they ought to see to it, that their understandings were not surrendered to, nor even influenced by, this feeling. It was now well ascertained, that one innocent man had already been convicted and had suffered imprisonment for this offence. A

number of the respectable freeholders, who had been returned on this pannel, had candidly declared here in court that they had formed an opinion that the freemasons of this vicinity as a body were concerned in these outrages. In such a state of feeling, when there was so much eagerness to convict somebody, there was great danger, that, to be suspected would be to be convicted. The most sanguine hopes of counsel would be realized, if the innocent person who had fallen under suspicion should escape unjust conviction and punishment: But on this subject he said, the counsel and the defendants themselves looked with confidence to the court for its advice to the jury, trusting that such advice would be received with the great respect to which it would be entitled.

*Mrs. Sarah Griswold, sworn.* Resides in the family of Widow Seymour, the mother of Harris Seymour. The evening before Mrs. Phelps died, Harris Seymour came to the house between sun-down and dark, and remained there with other company until near ten, when the party walked down street, (the witness in company with H. Seymour,) and on the way up stopped at Mrs. Phelps', with whom she watched that night, and the party returned up the street.

*Charles Seymour, sworn.* Was one of the same party spoken of by Mrs. Griswold. After Mrs. Griswold left them they all walked up as far as Mrs. Granger's, crossed over and came to the house. It must have been an hour or nearly after Mrs. Griswold left them that they dispersed, and Harris was there until they broke up.

*Oliver Phelps, sworn.* Mrs. Phelps died on the morning of the 13th of September, 1826.

*Thomas Neil, sworn.* Is a clerk of Henry Howard, and on the 12th of September last was in the post office about an hour, from 8 to 9. Witness left Henry Howard in the store when he went, and found him there on his return; the last charge that day on the book but one, is in Mr. Howard's hand writing. The last was entered on closing the store. Howard was not absent on the 12th—on the 11th he was absent till about sun-down; witness did not know that Howard was to be absent, or that he was absent, till about noon on Sunday. When Howard returned the stage stopped at his door, and he got out. Howard attended to his store after he returned on the evening of the 11th.

*Austin Wilder, sworn.* On the evening of the 12th of September last, he purchased at Howard's store two gallons of wine for Ira Wilder. There was but one person in the store, but whether Mr. Howard or his clerk, does not remember.

*Israel R. Hall, called again.* On the evening of the 12th of September last, was at Mark H. Sibley's office, from 8 till 10, went home and found Morgan gone from the jail.

*Mark H. Sibley, Esq. sworn.* On the evening of the 12th of September was in his office, and Mr. Hall and some other gentlemen were there—went into Howard's store to light a lamp; Howard and his clerk were there; can't say at what time they left the office, thinks about ten.

*Joseph M'Millan, sworn.* Worked with Roberts at Chese-

bro's last September; on the 12th of September, Roberts went to bed about eight o'clock, complaining of being unwell; witness found him in bed between 8 and 9, when he retired. Roberts came home on the 11th, about sun-down, and remained at home, took particular notice, because on the 13th, Hubbell, the butcher, told Roberts that Morgan was carried away. Roberts did not say much, but laughed—it was treated as a joke.

*Micah Brooks*, sworn. Is a Major General. The review of the brigade in Bristol took place on Tuesday, the 12th of September.

*Wm. Blossom*, sworn. Saw Halloway Hayward at the Bristol review, who remained there till near sundown. Saw him next day at the Bloomfield review.

*Johnson Goodwell*, sworn. Was at Batavia when Morgan was brought away. Came to Danold's tavern after Morgan had got into the carriage, and just as Miller came up. Miller asked Morgan where he was going; said he was his bail for the limits. Morgan said he was arrested on a warrant for stealing, and that he must and would go and satisfy the people of Canandaigua, that he was not guilty. Miller was agitated, and appeared to feel as if he was going to be injured by his going away. Morgan was in the opposite side of the carriage, and two other persons on the same seat; had a full view of his face, and did not discover any thing remarkable in his appearance. Miller said they should not take him away, and asked by what authority they took him. One said they had a warrant, and should take him. *Cross-*

*examined.* Witness had no intimation that Morgan was going away, till he came to the tavern that morning. The subject of the publication of Morgan's book was one of common talk in Batavia; but witness has no recollection of ever having heard the subject of suppressing the book spoken of by any person.

*John N. Dwight*, sworn. Lived near James Ganson in September last, and saw him at witness's store in Le Roy, on the evenings of the 11th and 12th of September. Ganson was about moving to Le Roy.

*Timothy Hosmer*, sworn. Lived at Avon last September, and kept the hotel. On Monday, the 11th of September, the party with Morgan stopped at his house for some refreshment, thinks Morgan was offered some.

*Jeffry Chipman*, called again. Does not recollect that Lima was mentioned when the warrant was taken out; no affidavit was prepared at all. The warrant was nearly prepared before Chesebro came. Kingsley then told his story, swore to it, and the blanks of the warrant were filled up; Mr. Chesebro suggested that it might be necessary to have the name of himself or some other person inserted, as a constable might not be procured.

*Ira Wilder*, sworn. Received of Aaron Ackley an assignment of all his right in the tavern. Thinks there were one or two accounts; they were mostly notes; these were handed over on the 19th of August to Chesebro, one of the assignees; a list of the accounts was handed him, but there was none against Morgan. He has



since seen the paper, and an account of two dollars against Morgan had been added.

*Nicholas G. Chesebro*, sworn. Says that he received of Esquire Chipman a warrant in Sept. last, (the one produced in court.) There had been no conversation with any of the defendants on trial, relative to the taking out of the warrant, before it was taken out. Witness went with the officer to Batavia, and all the defendants but Ganson. Witness spoke to Henry Howard, and asked him to take a ride. Howard objected, on account of his business—said if he could get home that night, or in the morning, he might go. Don't know as he said any thing about Morgan. Thinks he got a warrant before he spoke to any one. Saw Seymour on the side walk, and asked him to go to Batavia. Seymour hesitated, but said he had some business at the bank in Rochester, for the next day, and if he could return that way he would go. Witness did not mention to Seymour at that time, any thing about the warrant. Witness asked Roberts to go, and he asked them all to go, for *the ride only*. On the way to Batavia, no conversation was had of any thing to be done with Morgan, other than the bringing him to Canandaigua and trying him; had no thought of any thing further himself. At Batavia, witness and Hayward walked out in the morning, and the others were left in the house; Morgan was arrested and taken to Danold's. Witness took breakfast at the other house; was not at Morgan's examination before Chipman, but came after it was over, and learning that he was discharged, he presented an ac-

count of \$2.00. This charge witness put on the list of accounts, because Ingraham told him there was such an account at the bar. After Morgan was committed, should think he had no conversation with either of the defendants, relative to the removal of Morgan—neither of the defendants had, to the knowledge of witness, any part in taking away Morgan. Witness had no intention of it himself. The idea of Morgan's going west originated here after the discharge from the warrant. Did not anticipate any force being used to take away Morgan. Witness did not understand that Morgan was to leave the jail until near night on the 12th. At Batavia, Miller was at the carriage, and threatened to pursue, and witness supposed he would, which was the cause of his directing the driver to drive fast. In September last, Mr. James Sibley called on witness and introduced to him a man by the name of Church, and one or the other of them informed him of Morgan's intended publication of the book. Witness said but little; probably expressed his wish to have the publication suppressed. But nothing was agreed upon, and nothing was said of disposing of Morgan's person. *Cross-examined.* Thinks there was conversation at Chipman's, that Morgan was or had been at Lima. Never had any conversation with Kingsley on the subject of Morgan, before he took out the warrant. Witness's motive for prosecuting the theft was principally to suppress the publication. Thinks he must have told Henry Howard before they started, what passed at Chipman's office. Witness took the carriage himself, and paid for it



\$10. The leading subject of conversation on the way was that they were going to take Morgan, and that he would be convicted; and witness supposed this would derange the publication of the book. They had no further object.. They stopped at Major Ganson's, where he joined them. Witness had no conversation with Ganson on the subject of their business. When the stage stopped, witness got out immediately, and went in, and did not know the reason of its stopping. The party followed on foot and got to Darnold's about half an hour after dark. When the carriage stoppad, witness heard no one say they had not better go on, or that they had started and would go on. One object he had in getting a judgment against Morgan was to punish him for publishing the book, and to secure the debt. The evening of the 12th of September was the first witness heard of the plan of taking Morgan from jail. Several persons then communicated to him the purpose of removing Morgan. Those persons had been informed by communications from Canandaigua, sent to Rochester, that Morgan was in jail for debt. Witness supposed that Miller would come and pay the debt and take Morgan away, and to prevent this he sent the information to Rochester. Understood that Lawson paid the debt; don't know who; at the time Morgan was taken from the jail witness saw no other persons there that he knew, except Sawyer and Morgan. Witness hired the carriage and paid for it, to carry Morgan away. Witness has not seen Morgan since he saw him in

Chipman's office, nor heard from him in any way that he can rely on. Did not think that in any event that they would return by Rochester from Batavia, nor did they calculate to have Morgan go there. Neither of the defendants on trial was to the knowledge of witness, informed, or given to understand by significant words, by writing, by hints or by signs, that Morgan was to be taken from jail at Canandaigua.

*Charles C. Church*, sworn. Lives in Batavia, and is a silver smith. Knew Wm. Morgan in Batavia, about a year and a half; about July or August the publication of Morgan's book and the connection between him and Miller were frequent subjects of conversation. Was in Canandaigua in August or September; Mr Sibley asked witness about the book, and he told him it was going on. Sibley asked him to go and see a place he had bought of Mr. Chapin. On the way Sibley took him into Chesebro's shop and introduced him to Chesebro. Morgan's book was mentioned and Chesebro expressed his regret that the book was coming out. Witness does not recollect that one word was said about suppressing the book. Did not ask Sibley to introduce him to Chesebro. Knew nothing of Chesebro more than any other person. Witness came out on business at the Ontario Bank; came to take up a note, and not on the subject of the book. *Cross-examined.* Sibley began the conversation about the book. Witness' business at the bank was to take up his own note of \$300.

Here the testimony closed and

the counsel on both sides agreed to submit the case to the jury without argument.

Judge Howell then charged the jury. The Judge commenced by remarking, that the counsel, by declining to sum up the cause, had thrown a very unexpected burden on his hands, and they must not complain if he should fail to notice the whole of the testimony as fully as they might desire. The crime with which the defendants stood charged by the indictment was one of very great enormity. They were charged with having formed a wicked conspiracy to seize a citizen, under the protection of our laws, and enjoying the rights and entitled to the privileges of a free man; and without authority to transport him from the jail of Ontario County to foreign parts, and there to secrete and imprison him; and with having actually carried into execution this conspiracy. The counsel for the defendants had cautioned the jury against the influence of popular excitement; it was true that great excitement had prevailed, and the court rejoiced that it was so—the crime was one which ought to call forth the indignation of all virtuous citizens, and it was to be hoped that the excitement would never cease until the actors in this dark and probably tragical, affair, are brought to light, and the guilty punished. At the same time the jury were bound to divest themselves of all passion and prejudice, and to know nothing of this cause but what they derived from the testimony given them in the box where they were sitting. The judge defined a conspiracy, and

commented on the nature of the evidence by which it must in most cases be established. It was not to be expected that a secret and wicked combination should be proved by producing the original compact, but by showing the acts of many individuals, acting in concert, all tending to the same unlawful end. The first question to be determined by the jury, under the first and second counts, would be, had such a conspiracy as that charged in the indictment been proved to have been formed by *any persons whatever*; and if so, were the defendants on trial, or either of them, parties to it?—and second, were the defendants, or either of them guilty of kidnapping and imprisoning Morgan, as charged in the two other counts?

As to the first question the Judge remarked, that the evidence produced on the part of the prosecution established, most conclusively, the fact of the conspiracy between certain persons; and it then became the important question, whether either of the defendants were parties to it. The prosecution did not profess to offer any direct evidence of such participation, but would infer it from the acts of the defendants. It then becomes important to bear in mind the precise object stated to have been designed by the conspiracy charged in the indictment, to wit, the carrying of Morgan from the jail of Ontario county, and to inquire what acts of the defendants tended to accomplish that object. It was not contended that any direct agency had been proved against any of the defendants either in removing Morgan from

the jail, or in his subsequent imprisonment. It had indeed been fully proved, that he was violently removed from the jail at Canandaigua, and carried by night as far as the Ridge Road beyond Hanford's Landing, in Monroe county, and that he has not been heard of by his family or friends since that time. And although not so clearly proved, yet the evidence left but little room to doubt, that Morgan was carried in the same unlawful manner to Lewiston, and from thence down the river to the burying ground near Fort Niagara—and from that period his fate was not disclosed—whether living or dead, no one had informed us. But were either of the defendants engaged in his abduction? Some of them had proved conclusively, and the others very satisfactorily, that at the time of Morgan's abduction, they were engaged in other places about their ordinary business, and it did not appear that they had subsequently engaged in it. Did then any of the acts or deliberations of the defendants satisfy the jury that they had entered into the conspiracy to remove Morgan from the jail? The Judge then commented on all the facts and declarations proved, and charged

the jury. that if, after carefully examining all these, they should have any reasonable doubt of the guilt of the defendants, they must acquit them; but if from all the evidence, they were satisfied that the defendants had been parties to the conspiracy charged in the indictment, or had participated in the unlawful abduction and imprisonment of Morgan, charged against them, then they must fearlessly pronounce their verdict of guilty, however distressing the consequences might be to the defendants.

The jury then retired, and after an absence of about half an hour returned a verdict of *not guilty*.

The above trial commenced on Wednesday morning, and closed on Friday evening. There was a great latitude of inquiry taken in the examination of witnesses; and the numerous spectators who attended in the court room were gratified with the disposition manifested to give this conspiracy a thorough investigation. Important facts were elicited, relative to the treatment and probable fate of Morgan, which will aid in further prosecutions, and for the ferreting out of which much credit is due to the exertions of individual citizens:

# OBITUARY.

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## THE MARQUESS OF HASTINGS, K. G.

Nov. 28. On board the ship *Revenge*, then lying in Baia Bay, near Naples, having nearly completed his 72d year, Francis Rawdon Hastings, Marquess of Hastings, Earl of Rawdon, Viscount Loudoun, Baron Hastings, Botreux, Moliness, Hungerford, and Rawdon, Earl of Moira, and Baron Rawdon of Moira, co. Down, in Ireland.

Having completed his education at Oxford, and made a short tour on the continent, Lord Rawdon embraced the military profession, for which he had felt an early prepossession and entered the army in 1771 as Ensign in the 15th foot. He obtained a Lieutenantancy in the 5th in 1773, and embarked for America.

In 1778 Lord Rawdon was nominated Adjutant-General to the British army in America, with the rank of Lieutenant-Colonel; he was actively employed both on the retreat of the British army through the Jerseys from Philadelphia to New York, in the action at Monmouth which followed, and at the siege of Charlestown.

His Lordship was next appointed to the command of a distinct corps of the army in South Carolina, which province was invaded by the General, Gates. At the memorable battle of Camden, which succeeded on the 16th of August, 1780, Lord Rawdon commanded one wing of the army.

A severe and dangerous attack of illness obliged Lord Rawdon to quit the army for England, but the vessel in which he embarked was captured and carried into Brest. Lord Rawdon was almost immediately released, and on his arrival in England was honoured with repeated marks of distinction by his Sovereign, who appointed him one of his Aid-de-camps, and created him an English Peer, by the title of Baron Rawdon, of Rawdon in Yorkshire, March 5. 1783. He had received the rank of Colonel, Nov. 20, 1782.

In that House Lord Rawdon proved himself a clear and able orator, and a judicious

man of business. His benevolent persevering exertions on the Debtor and Creditor Bill, to relieve the distresses of persons imprisoned for small debts, will remain a monument of philanthropy upon the parliamentary records; while his manly deportment throughout every debate, both in the English and the Irish Parliament, proved his steadiness as a statesman not inferior to his intrepidity as a soldier.

Having formed an intimate friendship with the Prince of Wales, his Lordship took an active part in the Prince's favour on the memorable discussions respecting the Regency; and on the 26th of December, 1789, moved in the House of Lords the amendment in his Royal Highness's favour. With the late Duke of York his intercourse was equally constant, and in May, 1789, his Lordship acted as his second in his duel with Lieut.-col. Lennox.

In October of the same year, on the death of his maternal uncle the Earl of Huntingdon, he came into possession of the bulk of that nobleman's fortune. His mother then succeeded to the barony of Hastings, and the other baronies in fee possessed by her father, while the earldom of Huntingdon was unclaimed, and remained dormant till confirmed to the present Earl in 1819.

On the 20th of June, 1793, his Lordship succeeded his father as second Earl of Moira, and on the 12th of October that year he was advanced to the rank of Major-General.

In the summer of 1794, when the situation of the British army and that of the allies in Flanders was extremely critical, and the former was obliged to retreat through Brabant to Antwerp, the Earl of Moira was dispatched with a reinforcement of 10,000 men, and succeeded in effecting a junction with the Duke of York, though his Royal Highness was then nearly surrounded by hostile forces much superior in number. The dispatch which his Lordship had employed in embarking his troops without either tents or heavy baggage

page from Southampton, and in debarking them at Ostend, the 30th of June, 1794, prevented the enemy's ascertaining the actual strength under his command, which was an object of serious importance; and to maintain it, the Earl directed his Quarter-master-general, to issue orders that quarters should be provided at Bruges for 25,000 troops, although his force did not exceed 10,000. The delusion was admirably maintained, and the French General Pichegru, who was in the vicinity of Bruges with a force much greater than the British was completely deceived.

He soon afterwards returned to England; and had a command little more than nominal at Southampton.

In 1803 the Earl of Moira was appointed Commander-in-chief in Scotland, and promoted to the rank of General, Oct. 1.

On the 12th of July, 1804, his Lordship married Flora Muir Campbell, the present Countess of Loudoun.

His Lordship having acted steadily with the Opposition, he was, when they came into power in 1806, appointed to the post of Master-general of the Ordnance, in which he continued till the Tory party regained their ascendancy.

In 1812 the Earl of Moira was appointed to the high and distinguished office of Governor-general of British India. The vigorous prosecution and successful accomplishment of the Nepal war was his most important achievement. Its original object was merely the suppression of the Pindarries, an association whose undisguised principle was the plunder of all its neighbours; but it terminated, as the recent Burmese war has done, in adding greatly to the territory of the Company.

On the 7th of December, 1816, his Lordship was created Viscount Loudoun, Earl of Raydon, and Marquess of Hastings; and on the 6th of February following he was honoured with the thanks of Parliament for his conduct in the Nepal war.

The Marquess's health being affected by his residence in India, he returned to England in 1822, and was succeeded by Lord (now Earl) Amherst, the present Governor-general. On the 22d of March, 1824, he was nominated Governor and Commander-in-chief of Malta.

Some weeks before his death his Lordship had met with a fall from his horse, which produced very distressing effects on the hernia, from which he had long suffered and which finally produced his death. A letter, from an officer of the *Revenge*, states the following remarkable request of the illustrious deceased: "The late Marquess of Hastings, in a letter found amongst

his papers after his death, requested that on his decease, his right hand might be cut off, and preserved until the death of the Marchioness, when it was to be interred in the same coffin with her Ladyship! In pursuance of his direction the hand has been amputated."

#### MALTE BRUN.

*Dec. 14.* At Paris, aged 51. Conrad-Malte Brun, the celebrated geographer, and one of the editors of the *Journal des Débats*.

He was born in 1775, in the peninsula of Jutland in the kingdom of Denmark. His father's family was one of the first in that province; and possessing the nomination to several benefices in the Lutheran Church, he sent his son to the University of Copenhagen, to study theology, and take his degrees. The latter suffered his taste in the belles lettres to supersede theological pursuits; and at Copenhagen he published a volume of poems, and undertook the management of a *Theatrical Review*. At the University, however, he acquired that lofty power of reasoning which he was enabled afterwards to apply with so much success on various subjects. His father was of the aristocratic party which called for a war with France; but he espoused the cause of freedom, and wrote in favour of the enfranchisement of the serfs, and the liberty of the press, opinions not discordant from those of the minister Count de Bernstoff; and, a party having arisen which demanded the establishment of a free constitution, he became one of its most active members. In 1796, he published the *Catechism of the Aristocrats*, a biting satire against feudalism and the coalition of sovereigns. Menaced with a prosecution, he took refuge in Sweden: and while there, he published a volume of poems which acquired for him the encouragement and approbation of the Academy of Stockholm.

When Count Bernstoff was on his death-bed, he recommended to the Prince Royal to recall Malte Brun, and employ him in some diplomatic capacity. Accordingly, in 1797, he returned to Denmark, and was favourably received; but, having publicly attacked certain ministerial measures, he was again under the necessity of seeking an asylum in Sweden. Soon after he removed to Hamburg; and it is said to have been about this time that he became either the founder, or one of the most active members of a secret society, called the United Scandinavians, the object of which was to unite the three kingdoms of the North into one federative republic. The

project excited so much alarm, that Paul of Russia, and Gustavus of Sweden, demanded from the Danish Government, the punishment of its authors. In consequence, a prosecution was commenced against Malte Brun, who was then in Paris, and he was sentenced to banishment. He settled in Paris in 1799, devoting himself to literary employment. In conjunction with Mentelle, he published between 1804 and 1807, "Political, Physical and Mathematical Geography," in sixteen volumes, 3vo. On the reputation obtained by this work, the proprietors of the *Journal des Debats* requested him to join in the editorship of that paper. He accepted the invitation; and excepting for one brief interval, he devoted himself to that laborious duty to the very day of his death. Only one hour before he expired, he traced a few lines for the *Journal*, but had not strength to finish them.

M. Malte Brun was acquainted with all the languages of Europe; he wrote French with the facility of a native; he had a thorough understanding of the character of all the European cabinets: and the correctness of his memory, the soundness of his judgment, and the order which he introduced into the mass of his previously acquired knowledge, made it easy for him to analyse the most complicated subjects.

In 1807 appeared his "Picture of Ancient and Modern Poland;" and in 1808, he commenced a periodical work which is still continued, under the title of *Annals of Voyages and Travels, and of Geography and History*. It is a faithful and learned analysis of all the voyages and travels, and of all the discoveries in modern times. In 1814 and 1815, he produced another periodical, called the *Spectator*, which was completed in three volumes. Of his great work, his *Summary of Universal Geography*, six volumes have appeared; and the printing of the seventh and last volume is nearly finished. During the Hundred Days, he had the boldness to publish "Apology for Louis the XVIII;" and in 1825, appeared his *Treatise on Legitimacy*, in which the same sentiments are more fully developed.

Lastly, as if so many works were not sufficient to satisfy the passion for study and knowledge which consumed him, M. Malte Brun charged himself, during the last few months preceding his decease, with the drawing up of a *Dictionary of Universal Geography*, in one volume, which is in part printed. His labours were too great for his strength; and his physical energies were rapidly giving way. An interval of repose might have restored him, but he neglected the counsels of friendship; and

the fatal crisis speedily arrived. For three days only he kept his room; but even then he felt an anxiety to render himself useful, and only death could snatch the pen from his fingers.

M. Malte Brun was of very social habits, and during the winter had a regular weekly dinner of the literati of eminence of every country. He was extremely obliging, and had an excellent heart; it was only when he took the pen in his hand that he was really *mechant*, for then he neither spared friend nor foe, which made him many enemies.

On the 17th of December, his remains were interred in the Cemetery of the West, where M. Eyrles paid the tribute of his esteem and regret to his colleague, and M. de la Renaudiere bade a last adieu to the man who had preceded him in his office.

#### • DUKE OF YORK.

January 5, 1827, at the house of the Duke of Rutland, in Arlington-street, died, in his 64th year, his Royal Highness Prince Frederick, Duke of York and Albany in Great Britain, and Earl of Ulster in Ireland, Bishop of Osnaburg.

Prince Frederick was born August 16, 1763, the second son and child of George the Third and Queen Charlotte. On the 27th of the following February he was elected Bishop of Osnaburg, a nominal prelacy, to which the Elector of Hanover has the power of influencing the election alternately with another European power.

From his earliest age his Royal Highness was destined to the military profession, the study of which formed an essential part of his education.

On the 27th of November 1784, Prince Frederick, who had hitherto been generally known by the title of the Bishop of Osnaburg, was created Duke of York and Albany in Great Britain, and Earl of Ulster in Ireland. These titles had then been extinct for seventeen years, from the period of the death of his uncle Edward in 1767.

On the 27th of November 1787, he was introduced to the House of Lords; but the first instance of his joining in the Debates, was on the 15th of December 1788, when the Settlement of the Regency was under discussion. On this occasion (as, there is good reason to believe, on the more recent and memorable one,) he acted as the organ of his elder Brother, who, having engaged his affections in early youth, (for in their childhood they were remarkably attached.)

had the happiness of preserving that friendship unbroken to the last.

In May 1789, the name of the Duke of York was brought prominently before the public, on his having engaged in a duel with Lieut.-col. Lennox, nephew of the then Duke of Richmond, afterward in 1806 the successor to that title, and the father of his present Grace. This dispute originated in an observation of the Duke of York, "that Lt.-col. Lennox had heard words spoken to him at the club at Daubigny's, to which no gentleman ought to have submitted." This observation being reported to the Lt.-col. he took the opportunity, while his Royal Highness was on the Parade, to address him, "desiring to know, what were the words which he had submitted to hear, and by whom they were spoken?" To this the Duke of York gave no other answer than by ordering the Lt.-col. to his post. The parade being over, he went into the orderly-room, and sending for the Lt.-col., intimated to him, in the presence of all the officers, that he desired to receive no protection from his rank, as a Prince, and his station as Commanding Officer, but that, when not on duty, he wore a brown coat, and was ready as a private gentleman to give the Lt.-col. satisfaction. After this declaration, Lt.-col. Lennox wrote a circular to every member of the club at Daubigny's, requesting to know whether any such words had been used to him, and appointing a day for an answer from each; their silence to be considered as a declaration that no such words could be recollected. On the expiration of the term limited for an answer to the circular letter, the Lt.-col. sent a written message to the Duke of York to this purport: "That, not being able to recollect any occasion on which words had been spoken to him, at Daubigny's, to which a gentleman ought not to submit, he had taken the step which appeared to him most likely to gain information of the words to which his Royal Highness had alluded, and of the persons who had used them; that none of the members of the Club had given him information of any such insult being in their knowledge, and therefore he expected, in justice to his character, that his Royal Highness should contradict the report, as publicly as he had asserted it." This letter was delivered to the Duke by the Earl of Winchelsea, when the answer returned not proving satisfactory, a message was sent to him, desiring a meeting: time and place were settled that evening. The meeting accordingly took place; and the seconds published the following statement: "In consequence

of a dispute, of which much has been said in the public papers, his Royal Highness the Duke of York, attended by Lord Rawdon, and Lt.-col. Lennox, accompanied by the Earl of Winchelsea, met at Wimbledon Common. The ground was measured at twelve paces, and both parties were to fire at a signal agreed upon. The signal being given, Lt.-col. Lennox fired, and the ball grazed his Royal Highness's curl. The Duke of York did not fire. Lord Rawdon then interfered, and said: "That he thought enough had been done." Lt.-col. Lennox observed "That his Royal Highness had not fired." Lord Rawdon said "It was not the Duke's intention to fire: his Royal Highness had come out upon Lt.-col. Lennox's desire to give him satisfaction, and had no animosity against him." Lt.-col. Lennox pressed that the Duke of York should fire, which was declined, upon a repetition of the reason. Lord Winchelsea then went up to the Duke of York, and expressed his hope "That his Royal Highness could have no objection to say, that he considered Lt.-col. Lennox as a man of honour and courage." His Royal Highness replied, "That he should say nothing; he had come out to give Lt.-col. Lennox satisfaction, and did not mean to fire at him; if Lt.-col. Lennox was not satisfied, he might fire again." Lt.-col. Lennox said he could not possibly fire again at the Duke, as his Royal Highness did not mean to fire at him.—On this, both parties left the ground. The seconds think it proper to add, that both parties behaved with the most perfect coolness and intrepidity. (Signed.)

"RAWDON. WINCHELSEA.

"Tuesday evening, May 26, 1789."

A meeting of the officers of the Coldstream Regiment took place on the 29th of May, on the requisition of Lt.-col. Lennox, to deliberate on a question which he had submitted, "Whether he had behaved in the late dispute as became a gentleman and an officer?" and after a considerable discussion, adjourned to the 30th, came to the following resolution:—"It is the opinion of the Officers of the Coldstream Regiment, that subsequent to the 15th of May, the day of the meeting at the Orderly-room, Lt.-col. Lennox has behaved with courage; but, from the peculiar difficulty of his situation, not with judgment."

Amid the political agitations of the year 1791, the marriage of the Duke of York to the Princess Royal of Prussia served to cement more closely the relations which the Courts of St. James's and Berlin had found it their interests to contract, with the view of counterpoising the inordinance



## OBITUARY.

ambition and mighty projects of the restless Empress of Russia. The treaty touching this alliance was signed at Berlin on the 26th of January.

On the 29th of September the Duke of York was married, at Berlin, to Frederica-Charlotte-Ulrica-Catharina, only child of King Frederick-William, by his first consort Elizabeth-Ulrica-Christiana, Princess of Brunswick-Wolfenbützel; and half-sister of the present King of Prussia.

On the occasion of his marriage, the Duke had voted him by Parliament the sum of 18,000*l.* *per annum*, and the King settled on him 7,000*l.* from his Irish revenue, which, in addition to the 12,000*l.* *per ann.* he before enjoyed, constituted a yearly income of 35,000*l.* The sum of 3,000*l.* *per ann.* was at the same time voted to the Duchess, in case she should survive. There was, however, some opposition to these grants. Several Members deemed the revenue proposed by the Minister too large, as the Duke received a very considerable one from the Bishopric of Osnaburg, stated by some at no less than 35,000*l.* a year. But this appearing an object unfit for parliamentary discussion, the votes proposed by the Ministry passed in his favour.

In 1793 the Duke was called into active military service. A British army was ordered for Flanders, to form part of the grand army under the Prince of Saxe-Coburg. The Duke was appointed to the command of that Army, aided by Sir Ralph Abercrombie, Sir Wm. Erskine, and other officers of distinction. The first military operations in which his Royal Highness assisted, occurred in the neighbourhood of Tournay, and near St. Amand and Vicogne, in the month of May, in the course of which he was promoted to the rank of General. In the subsequent battle of Famars, on the 23d of May, he commanded a principal column of the allied army, and bore a share in the success of that brilliant day; the result of which was the investment and siege of Valenciennes. The direction of this operation was entrusted to his Royal Highness, to whom the city was surrendered, after a considerable part of it had been reduced to ashes, on the 26th of July.

Having joined the main army, the Duke of York co-operated, on the 7th and 8th August, in the movements against the enemy's positions at the Camp de Cesar, Bois de Bourlon, &c. upon the line of the Scheldt, from all which they were dispossessed, or retired, although without material loss, owing to the indecision and slowness of the allied army.

The Prince of Cobourg, after these operations, laid siege to Quesnoy, and subse-

quently invested Maubeuge, while the Duke of York continued his march in the direction of Orchies, Tourcoing, and Menin, with the British, Hanoverian, and Hessian troops, to which was added a body of Austrians, under the orders of Lieut. General Alvinczy. The object of this separation was the siege of Dunkirk, which had been determined upon by the British Cabinet, and which was viewed with regret, not only by the Austrian Generals, but also by his Royal Highness, who had remonstrated against it, as far as he could.

After a succession of severe and sanguinary actions, fought by the besieging and covering armies with success, though without any positive effect, the principal of which occurred on the 24th of August and on the 6th and 8th of September, the Duke of York found himself under the necessity of raising the siege. The retreat was effected in good order, and without any other loss than that of the heavy iron ordnance, which, being on ship carriages, could not be removed; and the army re-assembled at Furns and Dixmude.

After some trifling affairs the army went into winter quarters, the Duke of York's head quarters being at Ghent, whence, attended by Gen. Mack, he proceeded to England, to concert with the British Government the plan and measures for the ensuing campaign.

His Royal Highness returned, in the month of February 1794, from England to Courtrai, to which place the British head-quarters had been removed, upon a forward concentration of the cantonments. The troops under his command moved successively to Tournay, St. Amand, and the Plains of Cateau where the greater part of the allied army was united, under the command of the Emperor, on the 16th of April. On the following day a general and successful attack was made upon the enemy's positions at Vaux, Premont, Marets, Catillon, &c.; and Landrecies was immediately invested.

On the 10th of May the French, to the number of 30,000, under Pichegru, made a furious attack on the Duke, near Tournay. They were repulsed. But in a subsequent engagement at the same place, they defeated the Allies on the 14th. On the 18th the Duke of York's division was attacked, and obliged every where to give way, and the Duke himself was on the point of falling into the enemy's hands. It was with prodigious efforts that General Fox and Abercrombie found means to restore sufficient order among the troops to save them from total destruction and effect a retreat.



The rest of this disastrous campaign was a succession of disappointments. The Allies were at length no longer able to oppose the enemy. A reinforcement of 10,000 British troops, under Earl Moira, having arrived at Ostend, and marched with all speed to the relief of the Duke, on the 3th of July effected a junction. On the 14th of September Pichegru attacked the several posts which the Duke had taken along the river Dommel, and compelled him to retreat across the Meuse. The French crossed the Meuse in October, and on the 19th attacked the Duke's army. The Duke, after suffering severely, withdrew his troops across the Waal. On the 27th of October the French again compelled the Duke to move further off for security. A series of disasters succeeded, which terminated in the retreat of the British and their German auxiliaries through Westphalia. On the 14th of April 1795, the different British brigades embarked in the Weser for England. And thus terminated the warfare, under the Duke of York, in the years 1793, 1794, and 1795.

In February, 1795, the Duke of York was nominated to the situation of Commander-in-chief.

In 1799, the Duke again appeared in the field. On the 26th of August, the vessels, conveying a large British force, came to anchor near the shore of the Helder; and on the 27th the troops began to disembark. The first enterprise was the taking of the Helder. His Royal Highness himself landed in Holland on the 13th of September, and the force under him, including 1000 Russians, amounted to nearly 35,000 men. An engagement with the French took place on the 19th of September, which, owing, it is said, to the misconduct of the Russians, was unfavourable to the Duke. On the 8th of October another action took place. The right wing of the British was commanded by Sir Ralph Abercrombie, the centre division by General Dundas, and the left wing by Major-general Burrad. The French were entirely defeated. In this engagement their loss exceeded 4,000 men and 300 prisoners, and the British lost about 1,500 men. In another engagement, which followed soon after, the British were again master of the field of battle, though the loss amounted to 1,200 British and 700 Russians. The army directed its march towards Haerlem; but intelligence having been received that the French had succeeded in throwing up strong works in their rear, and that a corps would be placed in their rear as they advanced, his Royal Highness was

forced to pause. General Daendels having attacked the right wing of the British on the 10th of October, under Prince William of Gloucester, he was under the necessity of falling back. On the 17th of October a suspension of arms was agreed on between Generals Brun and Daendels and the English and Russian commanders, and it was agreed on that the English and Russians should be allowed to evacuate Holland, on condition that 8,000 seamen, either Batavian or French, prisoners in England, should be given up to the French government.

Upon his return to England, the Duke of York again directed his time and attention to the amelioration of the military system; each successive year afforded fresh proofs of the benefits arising from his unabated exertions.

On the 27th of January, 1809, Gwyllym Lloyd Wardle, esq. commonly called Colonel Wardle, brought forward a motion in the House of Commons, for the appointment of a Committee to investigate the conduct of his Royal Highness the Duke of York, the Commander-in-chief, with regard to promotions, exchanges, and appointments to commissions in the army, and in raising levies for the army.

On this occasion the Duke of York was acquitted by a majority of 278 to 186, but finding that a prejudice existed against him in the public mind, his Royal Highness waited upon the King, and tendered his resignation on the 18th of March, 1809.

One of the first acts of his present Majesty, after his being vested with the full powers of Regent, in 1811, was to reinstate his Royal Highness in his former office. Lord Milton brought this re-appointment before the House of Commons, and concluded with moving, "That it has been highly improper and indecorous in the advisers of the Prince Regent to have recommended to his Royal Highness the re-appointment of the Duke of York to the office of Commander-in-chief." When a division took place, there were only 47 for the motion, and 296 against it.

Since that time the Duke pursued the even tenor of his way, devoting himself to business with the greatest regularity. Every arrangement, the most minute, was submitted by the heads of departments, for his sanction; the memorial of every officer, the petition of every soldier, engaged his personal attention, nor were any suffered to pass unnoticed.

In July, 1814, and again at the same period in the following year, both Houses of Parliament passed a vote of thanks to the Duke of York, for the benefits he had be-

flower on the nation as Commander-in-chief in the wars then concluded.

After the death of Queen Charlotte in 1818, the Duke of York was appointed, with a Parliamentary grant of 10,000*l. per annum*, Custos of the person of his afflicted Father.

His Royal Highness had laboured under a dropsy since the month of July 1826, for the relief of which his Royal Highness underwent an operation on the 3d of September. The result of this operation, aided by the favourable effects of medicine afterwards, was the removal of the constitutional complaint; but its partial influence on the limbs, producing a mortification of a considerable portion of the shin of both legs, although, this was checked, and hung in suspense for a time, the powers of his frame sunk ultimately in the struggle.

#### M. PESTALOZZI.

*Feb. 17.* At Neuhof, in Switzerland, aged 82, M. Pestalozzi, a "a benefactor of the human race."

Pestalozzi was born at Zurich, in 1746. Having lost his father at an early age, he was brought up by his mother, who procured for him the advantages of a good education. His intention was to have devoted himself to the bar; but becoming deeply interested in the various plans which were agitated in Zurich for bettering the condition of the lower orders, he abandoned the study of the law; and was afterwards induced to undertake a manufacturing speculation, with a view of entering into closer contact with the poor. His plan seems to have been somewhat similar to that pursued by Mr. Owen at Larnark; so far, at least, as connecting the instruction of the young with the labours of their parents.

But a series of unfortunate circumstances ruined his establishment. In the retirement that ensued on his failure, he composed his tale of Leonard and Gertrude, a work which may vie in popularity with the *Pilgrim's Progress*, or *Robinson Crusoe*. It became popular in Germany as well as in Switzerland, and the author was encouraged to renew his exertions. Between the years 1781 and 1797, he published his *Weekly Journal for Country Folks*, *Letters on the Education of the Children of indigent Parents*, *Reflections on the March of Nature in the Education of the Human Race*, &c.

After the abolition of the ancient Swiss Governments, and the meeting of the Helvetic Legislative Council at Aron, M. Pestalozzi addressed to the Council a treatise

entitled "*Reflections on the Wants of the Country, and principally on the Education and Relief of the Poor.*" He was appointed principal editor of the *Helvetic Journal*, a paper devoted to the moral and religious interests of the People. In 1799 he was nominated director of an orphan institution, which the Government had established at Stantz. This appointment enabled him to reduce some of his theories to practice; at Stantz, he became at once the teacher, steward, and father of the institution; and there he formed the plan of interrogative education, which has since been known throughout Europe by his name. "I wished to prove," writes he to his friend Gessner, "by the essay I was about to make, that public education is of value, only as far as it resembles private. Every system of education, which is not carried on in the spirit of domestic relations, tends to demoralize man. The instructor should live among his pupils, as in the bosom of his own family. This turn of mind I felt within myself, and I wished that my pupils should discover from every word, action, and look, that I loved them with all my heart, that their pleasures were my pleasures, and that their happiness constituted mine." After struggling with the difficulties of his position for several months, Pestalozzi was enabled to discern the fruits of his labours. Many of his pupils manifested good abilities, and in a short time were seen above seventy children, taken almost all from a state of poverty, living together in peace and friendship, full of affection for one another, and with the cordiality of brothers and sisters. He had just succeeded in introducing some manual employment into his school, when the thread of his labours was rudely snapped by political changes; and exhausted in mind and body, he sought to recruit his powers by retirement and relaxation. After an interval of repose, Pestalozzi, under the patronage of the Swiss government, resumed his labours at Burgdorf, in the canton of Berne. At this period he was joined by several men of various degrees of talent and attainment; and the patronage of the Swiss government augmented his pecuniary resources, and furnished him with a locale for his exertions. But political changes once more broke up the rising institution.

The next period of Pestalozzi's career commences with the formation of two separate establishments, consisting, for the most part, of his former pupils. The children of the poorer class took up their abode at Munch Buchsee, a little village about five miles distant from Berne. He

Pestalozzi was much aided by M. de Feltenberg, who has since applied his principles of education, with some important modifications, to the instruction of both rich and poor. At Yverdon, in the canton de Vaud, Pestalozzi resumed his labours for the instruction of the higher and middle ranks of society. The fame of his method was now very generally spread through Switzerland and Germany. Many young men assembled under his paternal roof to act as instructors, and pupils from every part of Europe constituted one happy family around him. Each class had at its head an instructor, who lived with his scholars, and joined in their amusements as well as their studies; and thus connecting himself not only with their duties but with their pleasures, was enabled to win their affections, and gently mould them to his purpose. The character of Pestalozzi was the bond that united them; the kindness with which their masters treated them, and which overflowed in every word and action of Pestalozzi himself, contributed to impart a character of good humour and benevolence to the whole group. At Yverdon the principles of the method were applied to other branches of instruction, and the former plans were materially improved. A committee of masters watched over the moral and intellectual welfare of the institution, and drew up essays, or arranged exercises, for the approbation of the whole body. This may be dated as the most flourishing period of Pestalozzi's undertaking, though his pecuniary resources were by no means free from embarrassment. This circumstance co-operated with other causes to introduce divisions among the masters; a separation took place; and from that moment the institution at Yverdon declined. Disputes and dissension, between some of the individuals who had been connected with his establishments much embittered Pestalozzi's declining years; and, by withdrawing his attention from the school itself, diminished its usefulness, and hastened its dissolution. In 1825 Pestalozzi left the canton de Vaud, and retired to his little estate at Neuhof, in the canton of Argau, where he occupied himself till his death in preparing elementary works. His last production was entitled "Advice to my Contemporaries."

In 1803 M. Pestalozzi was one of the deputation which Buonaparte summoned from the Swiss Cantons, to deliberate on the means of restoring tranquillity to Switzerland; but he returned home before any arrangement could be effected.

Benevolence was the prevailing feature of Pestalozzi's character. It burned in him

with the intensity of a passion, and needed sometimes the sober restraints of judgment. It was as discernible in the affectionate simplicity of his ordinary manners, as in the persevering exertions, and disinterested sacrifices, which marked his long life of trial and suffering. His genius was original, profound, and fertile, rising superior to the most overwhelming difficulties, but too frequently negligent of ordinary resources. The style of his writings is vigorous, pathetic, and piquant, but unpolished and irregular; in his philosophical works heavy, involved, and obscure. His conversation was particularly animated, playful, and entertaining, abounding in unexpected turns of thought, with an occasional felicity of expression that made an indelible impression on the hearer's mind.

#### GEN. CAULAINCOURT.

*Feb. 20.* At his hotel, 57, Rue St. Lazare, Paris, aged 54, Lieut.-General Armand Augustine Louis Caulaincourt, created by Buonaparte Duke of Vicenza, and formerly Grand Ecuyer of the Empire of France and Minister for foreign Affairs.

Descended from an ancient family, M. Caulaincourt was born in Picardy in 1772. Devoted to the profession of arms, he was at the commencement of the Revolution an officer of cavalry. He did not emigrate, but served under the revolutionary standard; and, after making several campaigns as a colonel of dragoons, he became Aid-de-camp to Buonaparte when First Consul. Having obtained the confidence of his aspiring master, he was regarded as a suitable agent for the arrest of the Duc d'Enghien. In the course of the same year, he was named grand Ecuyer of France, made General of Division, and presented with the Grand Cross of the Legion of Honour. He subsequently received various orders of Knighthood, from Bavaria, Saxony, Prussia, Russia, and Austria. At the time when Buonaparte was carrying on his plans against Austria, Caulaincourt was sent as Ambassador to St. Petersburg. He was four years resident at the Russian Court, and received from the Emperor Alexander the cross of the order of St. Ann of the first class. Regarded, however, with dislike by the Russian nobility, he was subjected to various mortifications; and at length, under the well-understood pretext of ill health, he solicited and obtained his recall, and returned to France in 1811. In Buonaparte's famous expedition against Russia in 1812, Caulaincourt was his chosen Aid-de-camp and companion; and after a narrow escape from fire, sword, and

res', he returned with his Master in a ledge.

After the desperate battles of Lutzen and Bautzen in 1813, the deceased was appointed to negotiate with the Russian and Prussian plenipotentiaries. The armistice, to which he was a party, was soon broken; and the defeat of Buonaparte, at Leipsic, ensued. After hostilities had been removed from Germany to France, Caulaincourt, who had been elevated to the post of Minister for Foreign Affairs, was sent to negotiate with the allies at Châtillon, but, on some temporary success achieved by Buonaparte, was instructed to raise his claims; the consequence of which was, that the allies broke off the conferences, and marched to Paris.

On the abdication of Buonaparte at Fontainebleau, Caulaincourt, then Duke of Vicenza, was the abdicator's chief negotiator; and he signed the treaty of the 11th of April between the ex-Emperor and the Allies.

On the restoration of the Bourbons, Caulaincourt became a private man; and, before a month was at an end, he made an attempt to justify himself respecting the arrest of the Duke d'Enghien. On this subject he published a letter from the Emperor Alexander: his object in this was to shew that when the arrest took place, he was employed at Strasburgh on other business—that General Ordouner was the officer who arrested the prince,—and that Ordouner alone was employed in that affair. Soon afterwards, however, a pamphlet appeared, with the title "On the Assassination of Monseigneur the Duke d'Enghien, and of the justification of M. de Caulaincourt." The pamphlet was anonymous: but it was forcibly written, and, by references to diplomatic documents, it formed a decisive refutation of Caulaincourt's assertions.

Caulaincourt about the same time married Madame de Canisy, a lady who had been divorced; and with her he retired into the country till Buonaparte returned from Elba. He was then (March 21) made Minister for Foreign Affairs. He was extremely active in his endeavours to re-establish the Corsican dynasty; and he was incessant in his assurances to all the Foreign ministers—whose missions were, in fact, at an end—that Buonaparte had renounced all projects of conquest, and that his only desire was peace. He addressed circular letters of the same tendency, to all foreign courts, but equally without effect. One of these circulars came afterwards, with a letter from Buonaparte, to his present Majesty, the Prince Regent.

These curious documents were both laid before Parliament. A conciliating and even humble letter was sent by Caulaincourt to the Emperor of Austria; but, like the others, it received no answer. On the 2d of June, Caulaincourt was named by Buonaparte a Member of the Chamber of Peers. On the 17th, he announced to that body, that hostilities were about commencing. He was again employed as one of the Commissioners on the final deposition of his master.

When Louis XVIII. was reinstated, Caulaincourt quitted France, and for some time resided in England. He endured a long illness with great fortitude, and his funeral took place on the 28th of February in the Church of Our Lady of Loretto.

#### CHRISTOPHER GORE.

March 1st. 1827. Died at Boston, Massachusetts, Christopher Gore, in the 69th year of his age.

Christopher Gore was born in Boston, in the year 1758. His father was a highly respectable mechanic, who by a course of honest and skilful industry had acquired a large property. At the breaking out of the troubles between this and the mother country, he went to Halifax; as he was favourably disposed toward the royal government under which he had always lived. But he afterwards returned to Boston, and died there in the year '95.

The son received his early instruction at the public schools of that town. He then entered Harvard University, and was graduated there in 1776, at the early age of seventeen. Soon afterwards he commenced the study of law with the late Judge Lowell, and continued with him through his whole period of study, both as a pupil and a member of his family. This was a situation combining moral and intellectual advantages, such as are rarely offered to any young man; and Mr. Gore was able to appreciate and improve them. When he entered on the practice of his profession, he came to it not only with a mind prepared by a judicious course of study, but with the enviable recommendation of an uncorrupted youth.

He rose rapidly in public esteem, as a sound lawyer, as a politician, in the most generous sense of that word, as a true patriot, and as an honest man. He stood among the first at the bar, where his practice was extensive and lucrative. His fellow citizens manifested the regard in which they held him, and the confidence which they placed in him, by sending him, before he had attained the age of 30 with Ma-

cock and Samuel Adams, to the Convention of his native State, which considered the adoption of the national constitution.

In 1789, Mr. Gore was appointed by President Washington, United States Attorney for the District of Massachusetts. He was the first person who held the office; and coming to it in times of great trouble and distraction, he had many serious difficulties to encounter in discharging its duties. These difficulties resulted chiefly from the popular sympathy in the French revolution conflicting with the duties of the national government. In the excited state of public feeling, not even the high reputation of Washington could prevent a portion of the citizens from countenancing the most alarming breaches of neutrality. Boston was one of the principal scenes of these insults, and to such a pitch of insolence did the French agents arrive, that Washington was compelled to recall the exequator of the consular at that port for his violation of our neutral rights. The legal proceedings in this and other cases subjected Mr. Gore to a temporary loss of popularity, and to many difficulties in the execution of his official duties. But he encountered them with the manly intrepidity and unbending rectitude, for which he was always remarkable; and it was probably his conduct in this critical situation, which obtained for him the appointment from the Chief Magistrate to be one of the Commissioners under the fourth article of Jay's treaty, to settle our claims for spoliation. The appointment was made in 1796; and Mr. Gore's colleague was the late celebrated William Pinkney.

While in England, Mr. Gore secured, by his gentlemanly deportment and amiable qualities, the respect and attachment of all who became known to him; at the same time that by his assiduous attention to business, his profound knowledge of commercial law, his laboured arguments, and his personal influence, he recovered sums to a vast amount, for citizens of the United States.

Mr. Gore's and Mr. Pinkney's great exertions during this commission which lasted nearly eight years, are well known, but it is not so generally understood, that to Mr. Gore one large description of sufferers are principally indebted for the recovery of their claims. Mr. Pinkney, whose eminent talents are universally admitted, had great doubts as to that class of captures, which were made under the rule of 1756. Mr. Gore made a very elaborate and powerful argument in favour of these claims, and by his perseverance and exertions, many hundred thousand dollars were

secured to the citizens of the United States.

He remained abroad in the public service till 1804. When his friend, Mr. King, then the minister of the United States at the court of London, recalled to this country in 1803, he left Mr. Gore there as charge d'affaires; in which station he bore himself honourably and ably.

The friendship which subsisted between Rufus King and Mr. Gore was so long continued, and so rare, that no sketch of the character of either would be complete without adverting to it. It commenced at the University, and was uninterrupted for the space of fifty years. It was more confidential, and more affectionate than almost any which we have ever known, or in which we have any account, and is honourable to the character of them both.

Upon Mr. Gore's return in 1804, he was welcomed home by the strongest marks of public favour. He was elected to the Senate of Massachusetts, from the county of Suffolk, two successive years;\* and the next year to the House of Representatives, from Boston. In 1809 he was chosen Governor of the State.

Mr. Gore was Governor of Massachusetts but one year. At the next annual election the political sentiments of the majority of the people had changed, and the opposing candidate, Mr. Gerry, was chosen to succeed him.

In 1814, Mr. Gore was again brought into public life, being appointed by Governor Strong, during a recess, Senator to Congress, and afterwards chosen to the same office by the Legislature at their meeting. He served in this capacity about three years, and then withdrew into final retirement.

Though Mr. Gore cannot, perhaps, be called a man of genius, in the common acceptance of the term, because reason and not imagination reigned paramount with him, yet it not easy to be understood how a person can be without genius, who has the power within him, of comprehending extensive and intricate subjects, of seizing strongly on their prominent points, and of presenting them to others in a persuasive and convincing manner. It may not make him a poet or an eloquent orator; but it conducts him to the same results, and is not liable to the abuses of what is commonly denominated genius. Mr. Gore's mind was clear, acute, and discriminating. It was of a steady and decided cast, and yet liberal, unprejudiced, and open to conviction. He had cultivated it with assid-

\* In 1806 and 1807.

and care. He kept himself familiarly acquainted with the literature of the day, and was an excellent classical scholar. He has left nothing as the fruit of his studies and his pen but a few political essays in the daily papers, and some unpolished legal opinions and arguments. These are distinguished by justness of thought and entire purity of style.

His manners were of the best class of that school, generally termed the old school. They were those of a true and a finished gentleman; dignified without pride, elegant without pretension, and courtly without dissimulation or insincerity; in short, the internal grace and polish externally manifested. The effect of such manners was assisted and completed by the gift of uncommon personal beauty.

In his youth Mr. Gore was virtuous and uncorrupted; he was so in manhood, he was so in age. His was a pure spirit, high and looking upward, keeping itself clean from contamination. "His taste was refined; his sensibility acute; his feelings manly, generous, independent. He had the most lofty and elevated ideas of public and private duty; and his conduct was at all ways in perfect conformity with his principles. In times of excitement he was calm, and just; in times of corruption pure. He never sought popularity, but it pursued him." He lived not for himself. By kindness, cheerfulness, and charity, he diffused happiness around him. He was remarkably accessible and attentive to young men; discerning talent and merit, and helping them forward. It was in his nature to be hospitable; and his wealth, and the circumstance of his having no children, enabled him to be extensively and bounteously so; and not only hospitable, but in various ways useful to the community. A large estate which he purchased in the neighbourhood of Boston, he embellished and improved with taste and discernment. Sensible of the value of a judicious system of agriculture, he endeavoured to bring others to a sense of it by his example. It is in this country that the labours of the active, tasteful, improving agriculturist are particularly called for: and here, above all other places, such a man is eminently a public benefactor.

Mr. Gore was a useful member of several important literary societies; and to some of them he confined not his usefulness to his life-time. To the American Academy, and the Massachusetts Historical Society he left valuable bequests; and he made Harvard College, of which in-

stitution he had been, for some years, fellow, his residuary legatee.

During the last years of his life, Mr. Gore was a martyr to an excruciating disorder, which seized violently on his constitution, and defied all remedy. And like a martyr he endured his sufferings. On the 1st of March he yielded to its violence, and faithful, cheerful, and grateful to the end, he surrendered his spirit into the hands of his maker.

### RUFUS KING.

1827. April 20. At New York, in the 73d year of his age. RUFUS KING, a member of the Senate of the United States, died at the subject of the preceding Biographical notice.

Rufus King was the eldest son of John and King, a merchant of Scarborough, in the State of Maine, and was born in the year 1755. Having received a good school education, he was sent, between twelve and thirteen years of age, to Byfield Academy, in the town of Newbury, and placed under the care of its excellent teacher, Samuel Moody. Under the severe discipline for which this eminent instructor was noted, he finished his Academical studies; and was in the year 1773, admitted into Harvard college. Soon after his matriculation at Cambridge, he was deprived of his Father, who died at Scarborough, leaving to his mother and family a very considerable property. In the year 1775, on the breaking out of the war of independence the college became the barracks of the American troops, and the students were for a time, dispersed. In the autumn of the same year, however, they re-assembled at Concord, a village about eighteen miles distant from Cambridge where their collegiate course was resumed and prosecuted, until the evacuation of Boston by the English army in 1776, and the removal of the American troops from the College in the following year, when the students returned to Cambridge. In 1777, he received the honour of the College, having acquired great reputation for his classical attainments, and more especially for his extraordinary powers of oratory; an accomplishment in which he was particularly desirous to excel, and to the acquisition of which he applied himself with the passion of an enthusiast. From Cambridge he went immediately to Newburyport, and entered as a student of Law, in the office of the celebrated Theophilus Parsons, late Chief Justice of Massachusetts, with whom he completed his studies, and was admitted to the bar in 1780. While he was yet a student, however,

er, in the year 1773, he had an opportunity of displaying his ardour and alacrity in the cause of his country, and was one of those volunteers who joined General Sullivan, to whom Mr. King was appointed an aid, in his enterprize with Count D'Estaing against the British in Rhode Island.

In the first cause in which Mr. King made his appearance at the bar, he had for an adversary his great instructor Parsons. This circumstance, far from depressing him, seems to have called forth his best efforts, and he exhibited at that time such evidence of talents, both as a lawyer and a speaker, that immediate and confident predictions were made of his future eminence. He was chosen, soon after, to represent the town of Newburyport in the State Legislature, or, as it is called, the General Court of Massachusetts, in which he was soon distinguished for his abilities. About the year 1784, Congress recommended to the several states to grant to the General Government a five per cent impost. The proposition met with much opposition in the General Court. A distinction immediately arose between the federal and state interests. Those members who were adverse to the grant, being classed as friends of the states, those in favour of it as friends of the General Government. The leader of the latter party, on this occasion, was the late Governor of Massachusetts, Sullivan, then the most popular Speaker in the house; of the former, Mr. King. The debate was in the highest degree interesting, and after being protracted for several days, terminated in the triumph of those who voted with Mr. King.

In the same year he was elected, by an almost unanimous vote of the Legislature, as a Delegate to the Old Congress, although he had not, by several years, attained the age at which, consistently with the usages of the state, he could expect that distinction. The Congress was then in session at Trenton, where he took his seat as a member of that body. Towards the close of the year, it adjourned to meet at New York.

In that body he became an active and leading member, and took a zealous part in all the great measures which led to the establishment of the present national government.

It was upon the motion of the Massachusetts Delegation, composed of Mr. Dana and himself that Congress recommended the Convention, which formed the Federal Constitution. Another of the motions brought forward by Mr. King in that Congress deserves to be mentioned, as illustrating the consistency and early strength of

his opinions on a subject, for the discussion of which he has been subjected to much undeserved animadversion; we allude to his sentiments respecting slavery. On this topic his opinions were early formed, and he never deviated from them. The 16th of March, 1785, about three months after he had taken his seat in the National Councils, he brought forward a resolution prohibiting slavery in the territory north-west of the Ohio, and making that principle a fundamental article of compact between the thirteen original states and the people of that territory.

On this resolution the states divided, as follows: Affirmative. New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania and Maryland. Negative. Virginia, North Carolina, South Carolina and Georgia.

In 1787, Mr. King was appointed by the legislature of Massachusetts, a delegate to the general convention, held at Philadelphia, and his previous experience in the old congress enabled him to take a large share in the discussion and formation of our present system of government. He attended during the whole session of the convention, and was one of the committee appointed by that body to prepare and report the final draft of the constitution of the United States. That instrument having been reported by the convention to congress, and then referred to the consideration of the several states for ratification, Mr. King was sent by his old constituents of Newburyport, with Theophilus Parsons and Robert Treat Paine to that convention. In the mixed assemblage which composed this body, were many men of strong and ardent feelings, but whose minds were filled with preconceived opinions, against the proposed constitution difficult to eradicate. These prejudices were combated with great effect by Mr. King, and his opinions derived great weight from the circumstance of his having had several years experience (during his term of service in the old congress) of the defects of its organization, before he participated in the formation of the proposed constitution. Vehement objections were made to it in Massachusetts, as well as in New-York and Virginia; and whilst the talents of Hamilton and Madison were engaged in surmounting the obstacles opposed to it by the anti-federalists of the two latter States, Mr. King was performing an act of equally vital importance to his country, by soothing the fears and prejudices which operated against it, in a State that was still agitated by the feelings which produced the Shay rebellion. It was on



On this occasion too, that Mr. Ames first rendered himself conspicuous as a popular speaker, and gave testimony of the ability which was one day to lead him to eminence. He and Mr. King took the lead in the convention. Every day they made converts and became more popular, until, at last, the question was carried against the declared determination of those, who came there for the express purpose of defeating it.

In 1784, when Mr. King took his seat in congress, he renounced for ever, his professional occupation. About two years after, in 1786, he married Miss Alsop, the only child of John Alsop, an opulent merchant, and one of the delegates of New-York in the first continental congress; and in the year 1788, he removed from Massachusetts to the city of New York. In 1789, he was chosen by the city one of the members of the legislature, and during its extra session, in the summer of that year, he and general Schuyler were elected the first senators from the state, under the constitution of the United States.

In 1794, when the British treaty was promulgated, and the nation was thrown into a violent ferment by the conflict of opinion on its nature and provisions, Mr. King appeared by the side of his friend general Hamilton, at a meeting of the citizens which had been called in the public street, to explain and defend it.

But they were not permitted by the people to proceed in their harangue, and they retired, reserving the explanations they might have to offer, to be conveyed through the press. A series of papers, was accordingly commenced, under the signature of Camillus; of which those relative to the permanent articles of the treaty, the ten first numbers were written by general Hamilton, and the remainder, those concerning the commercial and maritime articles, by Mr. King. But at that period, they were all supposed to be from the pen of the former; nor was it till several years after, that the contrary was made known, and the information then came from general Hamilton himself. In these papers there is discovered a depth of research, and an acquaintance with the various treaties and laws of different nations on the subjects of navigation, trade, and maritime law, which render them of inestimable value.

About this period Albert Gallatin being chosen by Pennsylvania, a senator of the United States, a petition was presented from some of the citizens against his being permitted to take his seat, in which it was alleged that he was not qualified by having

been a citizen of the United States a sufficient number of years. Owing to the various modes of naturalization adopted by different States, the question was involved in some obscurity, and, besides, was one of the highest importance. A warm and lengthened controversy arose in the senate, in which the ablest men of both parties engaged. Among those who opposed the petition, and maintained the right of the returned member to his seat, were John Taylor of Virginia, Mr. Monroe, and Mr. Burr; on the other side were Elsworth, Strong, King, and their political friends; and to Mr. King it was assigned to answer Mr. Burr, in case he should take part in the debate; Mr. Burr did not rise to address the chair until the President had proceeded half way in putting the question; he then commenced an harangue of great eloquence. When he had finished, Mr. King immediately replied, and is said to have displayed his talents as an orator, more powerfully than on any occasion during his whole life. The debate resulted in Mr. Gallatin's exclusion from his seat.

After the expiration of his first term of service, he was re-elected, and, in the Spring of 1796, while yet in Congress, was appointed by President Washington, Minister plenipotentiary to the court of Great Britain. Before this appointment the department of State had been offered to him, as successor to Mr. Randolph, which appointment he declined.

Mr. King represented the United States at the English court, during the last year of President Washington's administration, the whole of that of Mr. Adams, and for two years of that of Mr. Jefferson, with equal honour and advantage to his country, and credit to himself.

While abroad, few foreigners lived on more intimate terms with the public characters and literary men of the day. The extraordinary personal influence he acquired at the court of Great Britain, enabled him signally to advance the interests of the United States, and to promote the views of his government. The chief subjects of negotiation committed to his charge were the claims of the State of Maryland, the northern and eastern boundaries of the United States, and the questions relative to the commerce of the United States and impressment of American seamen.

The temper of the British government towards their late colonies was not the most friendly, but the dignity, mildness, and firmness of the American Minister finally prevailed on them to agree to an amicable adjustment of most of these difficult questions. The Maryland claim was



finally settled by a convention in which the British government agreed to pay 600,000*l*.

A convention was also agreed to by the British government relative to the boundary lines, and after being signed by Lord Hawkesbury and Mr. King, May 12th, 1803, was rejected by Mr. Jefferson from a mistaken idea relative to its effect upon the northern boundary of Louisiana, the purchase of which had then just been completed. By that convention commissioners were to be appointed, one by each party, and a third by the agreement of the two commissioners, or by lot out of two named by them, and these commissioners were to determine the N. West angle of Nova Scotia and from that point to run the boundary to the N. West part of the Lake of the Woods. From that point the line was to be run directly to the nearest source of the Mississippi. It was to this part of the convention that the objection was made, lest it should interfere with the northern boundaries of Louisiana; but this proceeded altogether from an imperfect knowledge of that portion of the country and of the boundaries of the new cession. The residue of the convention related to the territory in the northern part of Maine, and provided for the settlement, in a speedy and economical manner, of a question, which has finally proved the source of serious uneasiness to both governments, and has required the interposition of a foreign power as an umpire.

The year previous to this, viz. Feb. 13th 1802, he induced the British government to accede to a proposition for abolishing all discriminating duties affecting the navigation and commercial intercourse between American and British territories, and a bill was introduced into Parliament having that object in view.

His special attention to the interests of navigation was also evinced in the part he took in reference to the publication of Sir Wm. Scott's Admiralty Decisions. Previous to that time, it had not been usual to publish the decisions of the English Admiralty courts, and while it was generally received opinion that they administered the laws of nations, in matters of prize, with great rigour, the English asserted that they manifested greater moderation than the courts of other nations. Upon the appointment of Sir Wm. Scott as a Judge of Admiralty, it occurred to Mr. King that it would be a good opportunity to commence a series of reports, which would subject the decisions of that court to the supervision of public opinion. With that view, having obtained the consent of Sir Wm.

Scott, he applied to the British Minister, and having obviated his objections to the proposed publication, he induced Dr. Robinson to act as the reporter. The reports were at first published by subscription, as they were not expected to be called for by professional men, and Mr. King subscribed for 50 copies in behalf of his government. Before the publication of these decisions, the Admiralty Judges had been in the habit of consulting his Majesty's council and following their directions in giving judgment in all novel prize questions. This practice was checked by the publication of their decisions and they thenceforth were rendered more conformable to the rules of national law.

The most important subject, however, committed to his charge, was that which related to the impressment of American Seamen, and in which he had nearly succeeded in procuring a renunciation of the pretensions of Great Britain.

During the war between France and that power, which ended in 1801, he had been unwearied in urging that topic upon the British ministry, and finally induced them to assent to the principles of an agreement. The peace put an end to the practice and to the negotiation, and previous to the renewal of the war, Mr. King had requested from the President permission to return to his own country.

Shortly before his embarkation, hostilities were renewed, and he made another strenuous effort to procure a renunciation of a practice so injurious to the independence and honor of the United States. With that view he submitted on the 7th of May, 1803, the following article:

"No person shall be impressed or taken upon the high seas out of any ship or vessel belonging to the subjects or citizens of one of the parties by the private or public armed ships or men of war belonging to or in the service of the other party."

To this article Lord St. Vincent, the first Lord of the Admiralty, and Lord Hawkesbury, the Secretary of State for Foreign Affairs at first assented, but upon consultation with Sir William Scott, an exception was required in favor of the narrow seas. As this was the first time the doctrine of *mare clausum* was urged against this country, it occasioned much surprise in the mind of Mr. King, but after deliberately considering the proposal, he determined to reject it rather than acquiesce in a principle fraught with consequences so repugnant to the equality and natural rights of the U. S.

Finding it impossible to effect a satisfactory arrangement on this point, and the other objects of his mission being concluded,

ed, he departed from the British Court, to the regret both of the ministry and of the leading members of the opposition, and returned to the United States, where he continued in retirement until the late war with Great Britain. He then conceived it to be his duty to come forward and to convince the enemy, that no party difference among Americans could so far make them forget their duty to their country as to omit providing for its defence. His patriotic support of the government during that war, and his determination to sacrifice party feelings and to unite with his friends in the common defence, acquired for him the esteem of his political opponents in his own state.

In 1813, he was chosen by the Legislature of New York, which was then Democratic, a Senator of the United States. The nation was at that time at war with Great Britain, and it ought to be recorded to the eternal honour of Mr. King, that he was one of those Senators whom no habit of opposition to administration, and no arbitrary classification of supposed claims of party could induce to a forgetfulness, that the United States was his country; and that the rights and the honour of that country he ought to support and maintain. It has been observed, that the conduct of the enemy in their destruction of Washington, tended to unite all parties in America. The speech of Mr. King in the Senate, on this occasion, while it may compare with any of his former efforts, in eloquence, has the rare and enviable distinction of being approved and applauded for its sentiments also, by the whole nation.

In 1816, while he was attending his duties at Washington, and without his knowledge, he was nominated, by a convention of Delegates from the several counties of the state, a candidate for the office of Governor of New York. With reluctance, and after much solicitation, he acquiesced in the nomination. The result, however, was unfavorable to the expectations of his friends.

In 1820, he was re-elected to the Senate where he continued until the expiration of the term in March, 1825. In 1821, he was a Delegate from the County of Queens, to the Convention which revised the Constitution of the State of New York.

During the second period of his service in the Senate, he brought forward several measures, which if they stood alone would entitle him to a high measure of enduring reputation. We allude to the law requiring cash payments upon sales of the public lands, and to the act of 1818, which is the foundation of the navigation system of the United States. The first of these acts was

intended to remedy an evil, growing out of an accumulation of the debt from the purchasers of the western lands to the federal government. Before the passage of that law, they had obtained sufficient influence in congress, to procure an annual remission of the interest of the debt and an extension of the credit, and a party was obviously forming which would one day have endangered the proprietary rights of the National Government, and perhaps have hazarded the harmony of the union. By abolishing the sales on credit, and authorising cash sales of smaller sections of territory at a minimum price, an easy and effectual remedy was provided.

The most celebrated measure however, in which Mr. King took a distinguished part during the second part of his legislative career, was in reference to the admission of Missouri into the Union. The warm and violent discussions which ensued upon this attempt to extend to Missouri the prohibition of slavery, which had been wisely imposed upon the N. W. Territory, produced a state of feeling in a large portion of the Union, very unfavourable to a dispassionate consideration of the claims of Mr. King to the gratitude of his country for the part he took on this occasion.

It was however perfectly consistent with his early opinions, and when taken in connexion with his first prominent act in the national councils, concerning slavery in the N. W. territory and with the last proposition made by him, at the close of his legislative career, viz. to devote the proceeds of the public territory to the emancipation and removal of slaves and free persons of colour to some country without the limits of the U. S. it indicates the earnestness and sincerity of his efforts to rescue his country from the stain of slavery and to eradicate the most prominent source of internal weakness.

Upon his retirement from the Senate with the intention of closing his political career, he was requested by Mr. Adams, to again represent the U. S. at the British court. With much reluctance and with the hope of contributing to the adjustment of several disputed questions between the governments, he accepted the mission. Confident expectations were entertained, that the high respect and consideration in which he was personally held by the leading members of the English cabinet would have essentially facilitated a satisfactory arrangement of these questions, and the marked attention paid to him on his arrival by Mr. Canning and the other ministers, proved that those expectations were not unjustly formed. An overruling Pro-

vidence, however, did not permit them to be realised. During his voyage, Mr. King was attacked with a disease often the consequence of a voyage, and which so impaired his health, as to prevent him from entering upon an active discharge of the duties of his office. After remaining abroad a year, in the hope of re-establishing his health without any improvement, he determined to return to die in his native land, in the bosom of his family and his friends. Here, cheered by the attentions of an affectionate family, and in a composed and resigned state, he calmly awaited his approaching end.

#### MARQUIS DE LA PLACE.

*March 5.* The Marquis de la Place, a French mathematician and astronomer of the first rank. This distinguished ornament of science was the son of a husbandman, resident at Benumonten Auge, near Pont l'Eveque. He was born in 1719; and for some time he taught the mathematics at the school in his native town; but he was induced to regard Paris as the only proper sphere for his talents. There, by his skill in analysis, and in the higher geometry, he soon acquired reputation. At the expense and under the immediate patronage of the president, De Saron, he published his first work, the "Theory of the Motion and Elliptical Figure of the Planets." M. la Place was the successor of Bezout, as examiner of the Royal Corps of Artillery; and he became, successively, member of the Academy of Sciences, of the National Institute, and of the Board of Longitude. In 1796, he dedicated to the Council of Five Hundred his "Exposition of the System of the World;" and in the same year he appeared before the bar of that assembly, at the head of a deputation to present the Annual Report of the proceedings of the National Institute; and, in an appropriate address, devoted to the memory of men of talents and learning, he paid an affecting tribute to the worth of his generous benefactor, De Saron. Some time afterwards, he was, under the Consular government, appointed Minister of the Interior; from which office he was, in December 1799, transferred to the Conservative Senate, to make room for Lucian Buonaparte. In July, 1803, he was elected President of the Conservative Senate; and, in September, he became Chancellor of that body, with the title of Grand Cordon of the Legion of Honour. In September, 1805, he made a report to the Senate, on the necessity of resuming the Gregorian calendar, and, discarding

that of the Revolution, a piece of nummery which, with all its absurdities, had been stolen from the Dutch colonists at the Cape of Good Hope. M. La Place was, in 1811, named counsellor to the Maternal society; and, in 1813, Grand Cordon of the Re union. In April, 1814, he voted for a provisional government, and the dethronement of Buonaparte; services for which Louis XVIII. rewarded him with the dignity of a peer. He was nominated a member of the French Academy in 1816, and President of the Commission for the Re-organization of the Polytechnic School.

Besides numerous articles in the collections of the National Institute, the Academy of Sciences, and the Polytechnic Schools, the principal works of la Place were as follow:—"Theory of the Motion and Elliptical Figure of the Planets," 1784; "Theory of the attractions of Spheroids, and the Figure of the Planets," 1785; "Exposition of the system of the World," 2 vols. 1796; "Treatise on Celestial Mechanism," 4 vols. 1799, 1800, 1805; "Analytical Theory of Probabilities," 1812; "Philosophical Essay on Probabilities," 1814.

The Marquis de la Place was, it is not to be mistaken, the first who analytically proved the existence and extent of the lunar atmosphere, and verified its secular equation. He also determined the reciprocal perturbations of all the principal planets; and he forwarded, by important discoveries, a similar work on the Satellites of Jupiter, commenced by Lagrange, and completed by Delambre. His studies were not, however confined to the mathematics, geometry, and astronomy: he devoted himself, with considerable ardour, to chemistry; in conjunction with Lavoisier, he invented the calorimeter; and he repeated the experiments of Monge and Cavendish, on the decomposition of water.

#### KING OF SAXONY.

*May 6.* At Dresden, aged 76, Frederick Augustus, King of Saxony.

He was born Dec. 23, 1750, the eldest son of Frederick Christian, the preceding Elector, by the Princess Maria Antoinetta of Bavaria. At the age of thirteen he succeeded his father as Elector; the administration being intrusted, during his minority, to his eldest uncle, Prince Xavier. In 1768, when he assumed the government Saxony was still suffering from the consequences of the seven years war; but, under the rule of the young prince, directed by his minister Gutschmidt, it soon attained

ed a comparatively flourishing state. In the course of a few days, bank paper, which had been greatly depreciated, rose above its nominal value.

In 1769, Frederick Augustus married Mary Amelia Augusta, sister of the Elector, afterwards King, of Bavaria. The only offspring of the marriage was one daughter, Mary Augusta, born in 1782, and married in 1819, to Ferdinand VII. King of Spain.

In the early part of Frederick's Electoral reign, the ancient Saxon code, notorious for its severity in criminal cases, was greatly meliorated, and the torture abolished. In 1776, a plot was formed against the Elector's person; but, through the information of the King of Prussia, it was discovered in time to prevent mischief, and Colonel Agnolo, a Transalpine, the chief conspirator, was arrested. The Electress Dowager, dissatisfied with her political utility in the State, was supposed to be implicated in this affair. The sincere attachment to the Elector, at this period, evinced by Marcolina, an Italian belonging to the household, subsequently procured for him the office of Minister.

Maximilian, Elector of Bavaria, the last male branch of his house, died in 1777. The nearest heir to his personal property was the mother of the Elector of Saxony; and, to enforce his claims as her representative, that Prince allied himself with Frederick II. of Prussia, in opposition to Austria, which, after a single contest, withdrew her claims, and Frederick of Saxony became possessed of half a million sterling of the personal effects of the deceased Elector.

By locality of situation, as well as by political connexion, the Elector of Saxony was induced to join with Prussia to watch, if not to overawe Austria. He was also one of the first to accede to the alliance of Princes, projected by the King of Prussia, ostensibly to support the neutrality of the secondary states of the empire, but virtually to operate against the schemes of Austria.

In 1791, Frederick of Saxony magnanimously declined the offer of the crown of Poland, proffered to him in the name of the Polish nation. In the same year, the memorable conferences between the Emperor

and Napoleon, for his own protection, as a Prince of the Empire, his contingent of troops of the general army. For four years he adhered to the allies; but when, after the treaty of Basil, between Prussia and France, the French General Jourdan, in 1796, penetrated into Franconia, he proposed an armistice, and acted on the principle of neutrality. During the Congress of Rastadt, from 1797 to 1799, he exerted himself to the utmost to preserve the integrity of the Empire. In the contest between France and Austria, in 1805, he remained neutral, but, from his connexion with Prussia, he was under the necessity of granting to the troops of that power, a passage through Saxony; and also, to furnish, in the following year, a body of 22,000 auxiliaries. The victories of Jena and Austerlitz, however, open his territories to the French: the respect due to his personal character proved scarcely able to his people; but, as the price of the Elector's neutrality, Buonaparte subjected Saxony to heavy requisitions, and to a contribution in money of 1,000,000 sterling. To relieve his subjects, the Elector made great advances to France out of his own personal treasury, and from his own personal estates.

In consequence of the treaty signed at Posen, in December 1806, the fortifications of Dresden were levelled with the ground; Saxony, however, was constituted a Kingdom; and as a King, the Elector acceded to the confederation of the Rhine. The subsequent treaty of Tilsit conveyed to the new King certain provinces detached from Prussia in various quarters. Frederick was, on the other hand, bound to maintain a body of 20,000 men, to be at the command of Buonaparte for the defence of France. Consequently in 1809, he was compelled to march his troops against Austria; but it was evident that the proclamations which he issued from Frankfort, whither he retired whilst his states were occupied by the Austrians, were dictated by his French connexion.

The King of Saxony was obliged to quit Dresden on the approach of the Russians, in the beginning of 1813; but he was restored by France after the battles of Lutzen and Bautzen; and afterwards his country became the seat of war. Numerous were the disasters by which its utter ruin was threatened. Ultimately, the King of Saxony was conducted to Berlin, while a Russian General commanded in Dresden. In October 1814, the Russian officer delivered up his charge to the Prussians, a transfer supposed to have been long previously arranged. Against this arrangement, Frederick made the most energetic protest, pos-

to avert the projected war against France; but he entered into the coalition against that power with great reluctance. In the ensuing year, when the French troops invaded the Netherlands, and the districts in the Lower Rhine, he was compelled to sur-

tively refusing his consent or acceptance of any indemnification whatsoever. At length, in February 1815, the Emperors of Russia and Austria, and the King of Prussia, determined that the King of Saxony should relinquish to Prussia a tract of valuable country, containing 164,000 inhabitants; that he should lose his share of Poland; that he should cede tracts of land to Saxe-Weimar and to Austria; and that his remaining territory should be reduced to an extent of country, inhabited by only 1,128,000. Soon afterwards, Frederick Augustus united his contingent of troops to the allied armies, and they formed a part of the army

of occupation on the frontier of France. His efforts were henceforward sedulously employed in healing the deep and dangerous wounds of his Kingdom. Through the influence of the King of Prussia, he, on the 1st of May, 1817, acceded to the Holy Alliance.

His Majesty's successor is his cousin of the same name, the son of his uncle, Maximilian, and Carolina Mary Theresa of Parma. He was born May 18, 1797; he accompanied the Saxon troops to France in 1815, and he was then contracted with a daughter of the Emperor of Austria.

FINIS

#### ERRATA.

Page 20, line 2d from bottom, insert 'a.'  
 123, 6 do. for 'Benson'  
 read 'Benton.'  
 157, line ult. for 'signor' read 'Sr.'  
 9 from bottom, for 'had'  
 read 'were.'  
 159, 14, for 'fratronate' read 'pa-  
 tronate.'  
 160, 10, for 'laying' read 'lying.'  
 166, 8, from bottom, insert 'he'  
 before 'conceived.'  
 167, 10, for 'indicative' read 'win-  
 dicatory.'  
 175, 2 from bottom, for 'Civilo'  
 read 'Cirilo.'  
 177, 4 from bottom, for 'Raou'  
 read 'Raoul.'  
 191, 19, for 'included' read 'in-  
 duced.'  
 198, 22, for 'decrees' read 'de-  
 cree.'

Page 191, line 1, for 'them' read 'him.'  
 209, 3, for 'more' read 'merc.'  
 212, 9, from bottom, for 'Lubia'  
 read 'Zulia.'  
 229, 7, for 'capitol' read 'capit-  
 al.'  
 232, 20, for 'Restrepo' read 'Re-  
 venga.'  
 247, 5 from bottom, after 'Aya-  
 cucho' insert 'were sta-  
 tioned at 'Lima.'  
 260, 9 from bottom, for 'liber'  
 read 'libre.'  
 274, 6, after 'provisional' insert  
 'director.'  
 281, 19, for 'Cilicitos' read 'Ch-  
 lecitos.'  
 283, 2, for 'execution' read  
 'executive.'  
 288, 16, for 'some' read 'none.'





